84

Supreme Court, U.S.
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OFFICE OF THE CLERK

No. _____

IN THE
Supreme Court of the United States

RAYMOND CHARLES PERSIK, et. al. [BEARS],
Petitioner(s)

v.

GROUP HEALTH COOPERATIVE INC., of WA,
Mrs. MONICA T. McCALLIE, et. al.,
UNKNOWN ABORTION DOCTOR,
UNIVERSITY of WASHINGTON MEDICAL CENTER,
Mr. ROB McKENNA, and
Ms. CHRISTINE O. GREGOIRE,
Respondents

On Petition For Writ of Certiorari
To The U.S. Court of Appeals for the 9th Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS FOR THE U.S. SUPREME COURT

1. Will this Court consider reviewing, albeit possibly prematurely in this case, their precedent setting decision in *Roe v. Wade*, 410 U.S. 113 (1973) which has taken the lives of possibly over 50,000,000[1],[2] unborn children lives, in total since January 22, 1973, which is more than the sum of the fatalities, and wounded, in all American wars since the commencement of our battle for freedom in the American Revolutionary War, 1775-1783?[3].

2. The Honorable Judge Thomas S. Zilly, [D.W.Wash-Seattle, 2005], states that the amended complaint fails to meet the requirements of F.R.Civ.P., Rule 8(a); will this Court remand this Case for the lead appellant, [Persik], to file a 2nd Amended Complaint, as motioned for on August 26, 2005, which will better comply with F.R.Civ.P., Rule 8(a), based upon knowledge obtained in December

---

[1] The computation of this figure includes ALL abortions since January 22, 1973, and the lead plaintiff clearly shows the computation in the litigation efforts in the lower courts. Additionally, new information, published October 19, 2007, shows less than 2% of all abortions are accomplished to save the life of the mother and in cases of rape or incest. "CBS News Poll: 54 Percent of Americans Take Pro-Life Position on Abortion", Steve Ertelt, LifeNews.com, "http://www.lifenews.com/nat3389.html, October 19, 2007..

[2] [Persik] received correspondence from LifeNews.com stating that perhaps fewer than 900,000 abortions are currently occurring annually which is still a horrific number, but [Persik] wanted this Court to have the correct information.

[3] [Persik] recently read information that the first battle of the revolutionary war took place in 1774.

2005 U.S. Army Reserve training, called association matrices, activities matrices and link diagrams?

3. Will this Court remand this Case with instructions for the 9th Circuit to grant the motions filed in connection with the Amended Opening Brief which in return may sway the 9th Circuit to further remand this Case?

4. Will this Court issue a ruling on the lead appellant representing a class that is not a corporation, rather an Un-Incorporated, Non-Profit Organization entitled "Bears4Babies" until Special Counsel or another qualified counsel can be appointed?

5. Pursuant to established case law, this Court can open up all previously filed Petitions since all petitions allegedly have their roots in the same alleged unlawful abortion; thus, will this Court revisit *Persik v. Colorado, infra, Persik v. Colorado State University, infra, Persik v. Manpower Inc., infra*, and *Persik v. Suthers, Colorado Attorney General, et. al., infra*?

6: The lower U.S. District Court issued an order dismissing the Plaintiff[s]-Appellant[s]' case without prejudice; will this Court review the suggested changes, at Appellant's Amended Opening Brief, ¶ Argument 1 B (4), to the F.R.A.P. via the "Rules Enabling Act", 28 USCS § 2072 (28 USCS § 2071 et. seq.)?

7. Will this Court issue Mandamus compelling the Governor of Washington State, Defendant [Gregoire], to request a criminal investigation be conducted, IAW WA State law, by either the King County, Washington State prosecuting attorney or the Washington State Attorney General's office, as a means to both uncover the truth surrounding the death of Angel Persik (Angel's correct diagnosis), and to send the radical pro choice, and radical pro life, people, or groups, a clear message on how conflicts , surrounding abortion, should be peacefully resolved within a democracy?

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PARTIES TO THE PROCEEDING

This is a petition for writ of certiorari concerning a district court case that was dismissed without prejudice before service of process took place; therefore, there was no appearance for Defendant(s) –Appellee(s) in this action.

1. Group Health Cooperative Inc., of Washington State
   521 Wall Street
   Seattle, WA 98121-1536

2. Mrs. Monica T. McCallie
   12261 9th Ave NW
   Seattle, WA 98177-4301

3. Unknown Abortion Doctor
   University of Washington Medical Center
   Mail Stop: 359-110
   1959 NE Pacific Street
   Seattle, WA 98104

4. University of Washington Medical Center
   Mail Stop: 356-151
   1959 NE Pacific Street
   Seattle, WA 98104

5. Rob McKenna
   Washington State Attorney General
   1125 Washington St. SE
   Olympia, Washington 98504-0100.

6. Mr. Gary Locke; (Official capacity as former WA State Governor) -- Removed per rules.

TABLE OF CONTENTS

QUESTIONS FOR THE U.S. SUPREME COURT ..... ii-iv

PARTIES TO THE PROCEDING .. -vi-vii

TABLE OF CONTENTS ..... viii-xii

TABLE OF AUTHORITIES ..... xiii-xiii

CASES xiii
STATUTES xv
CONSTITUTIONAL AUTHORITIES xix
RULES xx
TREATISES xxi
OTHER LEGAL AUTHORITIES xxi
OTHER PUBLISHED REFERENCES xxii
INTERNET REFERENCES xxii
SONG, MOVIE OR ARTISTIC REFERENCES xxiii

CITATIONS TO THE OFFICIAL AND UNOFFICIAL REPORTS OF THE OPINIONS AND ORDERS 1

Courts 1
Administrative Agencies 2

BASIS FOR JURISDICTION OF THE UNITED STATES SUPREME COURT .. 2

CONSTITUTIONAL PROVISIONS, TREATIES, STATUTES AND REGULATIONS 7

STATEMENT OF THE CASE 12

ARGUMENT 25

Part I. Will this Court consider reviewing, albeit possibly prematurely in this case, their precedent setting decision in *Roe v. Wade*, 410 U.S. 113 (1973) which has taken the lives of possibly over 50,000,000 unborn children lives, in total since January 22, 1973, which is more than the sum of the fatalities, and wounded, in all American wars since the commencement of our battle for freedom in the American Revolutionary War, 1775-1783? 25

Part II: The Honorable Judge Thomas S. Zilly, [D.W.Wash-Seattle, 2005], states that the amended complaint fails to meet the requirements of F.R.Civ.P., Rule 8(a); will this Court remand this Case for the lead appellant, [Persik], to file a 2nd Amended Complaint, as motioned for on August 26, 2005, which will better comply with F.R.Civ.P., Rule 8(a), based upon knowledge obtained in December 2005 U.S. Army Reserve training, called association matrices, activities matrices and link diagrams?..... 29

Part III. Will this Court remand this Case with instructions for the 9th Circuit to grant the motions filed in connection with the Amended Opening Brief which in return may sway the 9th Circuit to further remand this Case? 32

Part IV. Will this Court issue a ruling on the lead appellant representing a class that is not a corporation, rather an Un-Incorporated, Non-Profit Organization entitled "Bears4Babies" until Special

Counsel or another qualified counsel can be appointed? 33

Part V. Pursuant to established case law, this Court can open up all previously filed Petitions since all petitions allegedly have their roots in the same alleged unlawful abortion; thus, will this Court revisit *Persik v. Colorado, infra*, *Persik v. Colorado State University, infra*, *Persik v. Manpower Inc., infra*, and *Persik v. Suthers, Colorado Attorney General, et. al., infra*? 34

Part VI. The lower U.S. District Court issued an order dismissing the Plaintiff[s]-Appellant[s]' case without prejudice; will this Court review the suggested changes, at Appellant's Amended Opening Brief, ¶ Argument 1 B (4), to the F.R.A.P. via the "Rules Enabling Act", 28 USCS § 2072 (28 USCS § 2071 et. seq.)? 36

Part VII. Will this Court issue Mandamus compelling the Governor of Washington State, Defendant [Gregoire], to request a criminal investigation be conducted, IAW WA State law, by either the King County, Washington State prosecuting attorney or the Washington State Attorney General's office, as a means to both uncover the truth surrounding the death of Angel Persik (Angel's correct diagnosis), and to send the radical pro choice, and radical pro life, people, or groups, a clear message on how conflicts , surrounding abortion, should be peacefully resolved within a democracy? 38

CONCLUSION 39

APPENDIX ..... A-i

APPENDIX A: UNITED STATES COURT OF APPEALS A-1

APRIL 27, 2007, 9th CIRC. ORDER..... A-1

APPENDIX B: UNITED STATES DISTRICT COURT ORDERS..... B-1

AUGUST 26, 2006, D.C.W.WASH. ORDER... B-1

APPENDIX C: ORDERS ON REHEARING and JUDGMENT..... C-1

JULY 26, 2007, 9TH CIRC. ORDER on REHEARING C-1

AUGUST 7, 2007, 9TH CIRCUIT JUDGMENT C-2

APPENDIX D: MISCELLANEOUS ORDERS.. D-1

MAY 18, 2005 D.C.W.WASH. ORDER D-1

NOVEMBER 14, 2005 D.C.W.WASH. MINUTE ORDER..... D-3

APPENDIX E: ORDERS of the SUPREME COURT OF THE UNITED STATES..... E-i

I. U.S. SUPREME COURT ORDERS ON PETITION FOR WRITS OF CERTIORARI ... E-1

A. DECEMBER 4, 2006, Re: *Persik v. Suthers, et. al.*, 549 U.S. ____ (#06-471, 2006) E-1

B. JUNE 7, 2004, Re: *Persik v. Manpower, Inc.*, 541 U.S. 990 (#03-1473, 2004)..... E-2

C. APRIL 19, 2004, Re: *Persik v. Colorado State University*, 541 U.S. 990 (#03-1278, 2004) E-3

D. FEBRUARY 24, 2003, Re: *Persik v. Colorado*, 537 U.S. 1190 (#02-875, 2002) E-4

II. U.S. SUPREME COURT ORDERS ON PETITIONS FOR REHEARING..... E-5

A. FEBRUARY 20, 2007, Re: *Persik v. Suthers, et. al.*, 549 U.S. ____ (#06-471, 549 U.S. ____ 2006) E-5
B. AUGUST 23, 2004, Re: *Persik v. Manpower, Inc.*, 542 U.S. 960 (#03-1473, 541 U.S. 1086, 2004) E-6
C. JUNE 14, 2004, Re: *Persik v. Colorado State University*, 542 U.S. 916 (#03-1278, 541 U.S. 990, 2004) E-7
D. APRIL 21, 2003, Re: *Persik v. Colorado*, 538 U.S. 995 (#02-875, 537 U.S. 1190, 2002) E-8
APPENDIX F: TREATISES, CONSTITUTIONAL AUTHORITIES AND STATUTES F-1
I. INTERNATIONAL TREATISES F-1
II. U.S. CONSTITUTIONAL AMENDMENTS F-4
III. FEDERAL STATUTES F-9
A. 10 USCS F-9
B. 16 USCS F-12
C. 18 USCS F-12
D. 28 USCS F-43
E. 42 USCS F-45
F. 50 USCS. F-50
IV. STATE STATUTES F-55
A. CALIFORNIA PENAL CODE F-55
B. COLORADO REVISED STATUTES (C.R.S.) F-56
C. PENNSYLVANIA STATUTES (P.S.) F-64
D. REVISED CODE of WASHINGTON (RCW) F-67

TABLE OF AUTHORITIES

CASES

Cases
AG Pro, Inc. v. Sakraida, 481 F2d 668 (5th Circ, 1973) 32
Anderson v. City of Bessemer City, North Carolina, 470 U.S. 564, 573 (1985) 25
Buckley v. Altheimer, 2 FRD 285 (DC Ill, 1942) 29
Carpenter v. Williams, 85 F.3d 1015 (10th Circ, 1996) 31
Chessman v. Teets, 354 US 156 (1957) 35
City of Rome, Georgia v. U.S., 446 U.S. 156 (1980) F-25
City of Rome, Georgia v. U.S., 472 F. Supp. 221 (D.D.C. 1979) F-25
Conley v. Gibson, 355 U.S. 41 (1957) 31
Driver v. Driver, 416 A2d 705 (36 Conn Supp 229, 1980) 3
Estate of Wolf Commissioner, 264 F2d 82 (1959) 6
Ex parte Hudgins, 9 ALR 1361 (86 WVa 526, 1920) 32
Gonzales, Attorney General v. Carhart, et. al., 550 U.S, ___ (#05-380, 2007) 13, 24
Gonzales, Attorney General v. Planned Parenthood Federation of America, Inc., et. al., 550 U.S. ___ (#05-1382, 2007) 13
Haines Pipeline Construction v. Montana Power Co., 830 P2d 1230 (1992) 30
Henry v. Daytop Village, Inc, 42 F.3d 89 (2nd Circ, 1994) 31

In Adoption of a Minor, 136 F2d 790 (78 US App DC 48, 1943) 3
In re. Westinghouse Sec. Litig., 90 F2d 696 (3rd Circ, 1996) 31
Katzenbach v. Morgan, 384 U.S. 641 (1966)..... ..... F-24, F-25
McHenry v. Renne, 84 F.3d 1172, 1177 (9th Circ, 1996) A-2
Mercer v. Theriot, 377 US 152 (1964)..... 35
National Wildlife Federation (N.W.F.) v. The United States of America, et. al., 626 F. 2d 917 (1980) ... 38
Persik v. Colorado State University, 542 U.S. 916 (#03-1278, 541 U.S. 990, 2004) .... iii, ix, 5, 12, 19, 35, E-3, E-7
Persik v. Manpower, Inc., 542 U.S. 960 (#03-1473, 541 U.S. 1086, 2004) ..... iii, ix, 12, 35, E-2, E-6
Persik v. Suthers, Colorado Attorney General, et. al., 549 U.S. ___ (# 06-471, 549 U.S. ___ , 2007) .... iii, ix, 12, 33, 35, E-1, E-5
Persik v. The People of Colorado, 538 U.S. 995 (#02-875, 537 U.S. 1190, 2002) iii, x, 12, 19, 35, E-4, E-8
Persik, et. al. v. Group Health Cooperative Inc., of WA, Mrs. Monica T. McCallie, et. al, Unknown Abortion Doctor, University of Washington Medical Center, Mr. Rob McKenna, Mr. Gary Locke, Ms. Christine O. Gregoire, 05-CV-00882TSZ, (D.C.W.Wash, 2005) .... ii, 1, 22, B-1, D-1, D-3
Persik, et. al. v. Group Health Cooperative Inc, of WA, et. al. 05-35953, (9th Circ, 2005)..... .....ii, 1, 2, A-1, C-1,C-2
Persik, et. al. v. Tucci Learning Solutions, Inc., and Atkins, Director EEOC Local Office, C06-04731 (N.D.Cal., 2006)..... 21, 24, 25

Persik, et. al. v. Tucci, et. al., 07-17178 (9th Circ, 2007) 25
Planned Parenthood of Southeastern Pennsylvania v. Casey, 505 U.S. 833 (1992) 22, B-2, D-2, F-29
Roe v. Wade, 410 U.S. 113 (1973) ..... ii, ix, 12, 14, 16, 19, 22, 25, 28, B-2, D-2, F-29
Shell Oil Co. v. Industrial Com., 94 NE 2d 888 (407 Ill 186, 1950) 4
Stenberg v. Carhart, 530 U.S. 914 (2000) 13, 24, F-22, F-23, F-24, F-29
Strong Delivery Ministry Assoc. v. Board of Appeals, 543 F2d 32 (7th Circ, 1976) 33
Toledo Scale Co. v. Computing Scale Co., 261 US 399 (1923) 32
Turner Broadcasting System, Inc. v. Federal Communications Commission, 512 U.S. 622 (1994) F-25, F-26
Turner Broadcasting System, Inc. v. Federal Communications Commission, 520 U.S. 180 (1997) F-26, F-27
United States v. Barrera, 951 F.2d 1089 (9th Circ, 1991) A-2
U.S. v Johnson, 525 F.2d 999 (1975) 27
U.S. v. Johnson, 424 US 920 (1976) 27
Van Heest v. Veech, 156 A2d 301 (58 NJ Super 427, 1959) 4

STATUTES

Statutes

10 USCS § 331. Federal aid for State governments... ..... 8, F-9
10 USCS § 333 (1999) Interference with State and Federal law. 8, F-9

10 USCS § 380. Enhancement of cooperation with civilian law enforcement officials. 8, F-10
10 USCS § 814. Art. 14. Delivery of offenders to civil authorities. 8, F-10
10 USCS § 878. Art. 78. Accessory after the fact. ..8, F-11
10 USCS § 881. Art. 81. Conspiracy.....8, F-11
10 USCS § 917. Art. 117. Provoking speeches or gestures.....8, F-11
15 USCS § 17 ..... F-33
16 USCS § 917. Congressional findings.....8, F-12
18 USCS § 1341. Frauds and swindles. 8, 31, F-13, F-36
18 USCS § 1512. Tampering with a witness, victim, or an informant. 9, 30, F-14, F-18, F-36
18 USCS § 1513. Retaliating against a witness, victim, or an informant. 9, 30, F-17, F-18, F-36
18 USCS § 1514. Civil action to restrain harassment of a victim or a witness. 9, 30, F-18
18 USCS § 1531. Partial-birth abortions prohibited. 9, 13, 18, F-18
18 USCS § 1584. Sale into involuntary servitude. 9, 14, 31, F-32
18 USCS § 1951. Interference with commerce by threats or violence. 9, 30, F-32
18 USCS § 1952. Interstate and foreign travel or transportation in aid of racketeering enterprises.... .....9, 30, F-34
18 USCS § 1961. Definitions. . 9, 30, F-35, F-39, F-40
18 USCS § 2151 et seq. F-55
18 USCS § 2241 et. seq. Aggravated sexual abuse..... ..... 9, 17, F-40, F-42, F-43
18 USCS § 2242. Sexual abuse.....9, 17, F-42, F-43
18 USCS § 2243. Abusive sexual conduct..9, 17, F-42

18 USCS § 241. Conspiracy against rights. 8, 30, F-12
18 USCS § 242. Deprivation of rights under color of law 8, 30, F-13
18 USCS § 3651 ..... F-13
21 USCS § 802 ..... F-34, F-35, F-38
28 USC § 1291 2
28 USCA § 1361 38
28 USCS § 1654. Appearance personally or by counsel. 9, 33, F-44
28 USCS § 1733. Government records and papers; copies 10, 28, F-44
28 USCS § 2071 et. seq. ..... iv, x, 36
28 USCS § 2072. Rules Enabling Act ..... iv, x, 36
28 USCS § 509. Functions of the Attorney General. Sec. 2537. Appointment Responsibilities and Compensation of the Special Counsel. ..10, 34, F-43
35 P.S. § 780-112. Records of distribution of controlled substances. 12, 18, F-64
35 P.S. § 780-113. Prohibited acts; penalties 12, 18, F-66
42 USCA § 1973b(e). Voting Rights Act of 1965. F-24
42 USCS § 1971. Interference with freedom of elections. 21
42 USCS § 1981. Equal rights under the law.. 10, 30, F-45
42 USCS § 1981a. Damages in cases of intentional discrimination in employment. 10, F-45
42 USCS § 1982. Property Rights of Citizens 10, F-45
42 USCS § 1983. Civil action for deprivation of rights. 10, 30, F-46
42 USCS § 1985. Conspiracy to interfere with civil rights. 10, 30, F-46, F-49

42 USCS § 1986. Conspiracy to interfere with civil rights.....10, 30, F-49
42 USCS § 1994. Peonage..... 14
42 USCS § 2000b-2. Personal suits for relief against discrimination in public facilities. 10, F-49
45 USCS §§ 151-188..... F-34
50 USCS § 1801 (1996) Electronic Surveillance, Definitions. 11, 29, F-54
50 USCS Appx §§ 501-590. Soldiers' and Sailors' Civil Relief Act of 1940 (SSCRA). ..3, 4, 5, 10, 50-54
50 USCS Appx §§ 510. Purpose; suspension of enforcement of civil liabilities..... F-50
50 USCS Appx §§ 511. Definitions.....3, F-51
50 USCS Appx §§ 512. Territorial application; jurisdiction of courts; form of procedure.....3, F-52
50 USCS Appx §§ 516. Extension of benefits to persons ordered to report for induction or military service. 4, 5, F-53
50 USCS Appx §§ 521. Stay of proceedings where military service effects conduct thereof.....3, F-53
50 USCS Appx §§ 523. Stay or vacation of execution of judgments, attachments, etc..... F-54
50 USCS Appx §§ 525. Statutes of limitations as affected by period of service.....4, 5, 10, F-54
8 USCS § 1324 ..... F-38
8 USCS § 1327 ..... F-38
8 USCS § 1328 ..... F-38
C.R.S. 13-25-131 (1999) Civil actions – sexual assault – certain evidence presumed irrelevant. 11, 17, F-56
C.R.S. 13-6-106 (2002) Original Criminal Jurisdiction.....11, F-56
C.R.S. 18-1-602 (1999) Behavior of Another..11, F-57
C.R.S. 18-1-603 (1999) Complicity. 11, F-58

C.R.S. 18-1-606 (2002) Criminal Liability of Corporations. 11, F-58
C.R.S. 18-1-709 (2002) Entrapment. 11, 28, F-59
C.R.S. 18-2-201 (2002) Conspiracy 11, F-60
C.R.S. 18-2-206 (2002) Penalties for criminal conspiracy – when convictions barred. 11, F-61
C.R.S. 18-3-207 (2002) Criminal extortion - aggravated extortion. 11, F-62
C.R.S. 18-9-111(g) (1999) Harassment Inconvenient Hours 19
C.R.S. 24-5-101 (2002) Effect of criminal conviction on employment rights. 12, F-63
California Penal Code, § 205. Aggravated Mayhem. 11, 17, F-55
California Penal Code, § 207. Kidnapping defined. 11, F-55
RCW 9.02.110. Right to have and provide. 12, 30, F-67
RCW 9.02.120. Unauthorized abortions – Penalty 2, 12, F-67
RCW 9.02.130. Defenses to prosecution 67
RCW 9.02.170. Definitions. 68
South Dakota's House Bill 1215 14

CONSTITUTIONAL AUTHORITIES

Constitutional Provisions
Amendment I, U.S. Constitution. Religious and political freedom. 7, F-4, F-26
Amendment IV, U.S. Constitution. Unreasonable searches and seizures 7, 30, F-4
Amendment IX, U.S. Constitution. Construction of Enumerated Rights. 7, F-6

Amendment V, U.S. Constitution. Criminal actions-Provisions concerning-Due process of law and just compensation clauses. 7, 8, F-5
Amendment VI, U.S. Constitution. Rights of the accused. 7, F-5
Amendment VIII, U.S. Constitution. Excessive Bail, Fines, Punishments 7, 17, 30, F-5
Amendment X, U.S. Constitution. Reserved Powers to the States 7, F-6
Amendment XI, U.S. Constitution. Suits Against States – Restriction of Judicial Power 8, F-6
Amendment XIII, U.S. Constitution. § 1 Slavery Abolished and § 2. Power to enforce amendment. 8, 30, F-6
Amendment XIV, U.S. Constitution. Citizenship; Privileges and Immunities; Due Process; Equal Protection; Apportionment of Representation; Disqualification of Officers; Public Debt; Enforcement. 8, 30, F-7

RULES

Rules
9th Cir. R. 36-3 ..... A-1
Colo. Crim, Rule 35(c) 19
F.R.A.P., Rule 3. Appeal as of Right – How Taken .... x, 36, 37
F.R.A.P., Rule 4. Appeal as of Right ..... x, 36, 37
F.R.Civ.P., Rule 4(m) 22, D-3
F.R.Civ.P., Rule 8(a) .... ii, ix, 21, 29, 31, A-2, B-1, B-2, B-3, D-1
Fed. R. App. P. 34(a)(2) A-2
U.S. Supreme Court, Rule 10(c) 6

U.S. Supreme Court, Rule 10(a) 6
U.S. Supreme Court, Rule 13 2
U.S. Supreme Court, Rule 14.1(f) 7
U.S. Supreme Court, Rule 29.4(b) or 29.4(c) 6
U.S. Supreme Court, Rule 33.1(d) 7
U.S. Supreme Court, Rule 33 1(g)(i) 7

TREATISES

Treatises

Convention on the Recognition of Divorces and Legal Separations, 1972 UNTS 487 (1970). F-3
International Covenant on Civil and Political Rights, 999 UNTS 171 (1966). F-1

OTHER LEGAL AUTHORITIES

Other Legal Authorities

5 Am Jur 2d Appellate Review § 819 30
8 Am Jur Proof of Facts (POF) p 153 (1960), Motion Pictures as Evidence 16, 26
Contemporary Applications of the Soldiers' and Sailors' Civil Relief Act, by Major James P. Pottorff, 132 Mil. L. Rev. 115, 118 (1991) 6
How much protection do injunctions against enforcement of allegedly unconstitutional statutes provide? Vikram David Amar, 31 Fordham Urb. L.J. 657 (2004) F-32
It's my body it's my choice: The Partial-Birth Abortion Ban Act of 2003. Comment, 35 Loy. U. Chi. L.J. 1117 (2004). F-32

Recent developments in reproductive health law and the constitutional rights of women: *The role of judiciary in regulating maternal health and safety. Comment*, 41 Cal. W. L. Rev. 507 (2005)..... F-32
Use of Motion Pictures as Evidence, 62 ALR 2d 686 (1958) 27

OTHER PUBLISHED REFERENCES

Other Published References

"Variable Temperature (VT), Magic Angle Spinning Probe for Solid State Nuclear Magnetic Resonance", Raymond Persik and UNL, Department of Chemistry, UNL, Lincoln, NE 1996 27
Orders 136-709, 1-11 Field Artillery (FA); 199 IN BDE (MTZ), Department of the Army, 17 July 1990..... 28

INTERNET REFERENCES

Internet References

"High Tech Lynching", Steven Ertelt, LifeNews.Com, http://www.lifenews.com/nat3351.html, September 27, 2007..... 15
"CBS News Poll: 54 Percent of Americans Take Pro-Life Position on Abortion", Steve Ertelt, LifeNews.com, "http://www.lifenews.com/nat3389.html, October 19, 2007.....ii, 15

"Ronald Reagan's Top Supreme Court Choice Would Have Opposed Abortion", Steven Ertelt, LifeNews.Com, http://www.lifenews.com/nat3529.html, 2007 14
South Dakota Right to Life, http://sdrtl.blogspot.com/2006/02/legislative-issues.html", 2006. 13

SONG, MOVIE OR ARTISTIC REFERENCES

Song, Movie and Artistic References

"A Few Good Men", Columbia Pictures Industries, Inc, Culver City, CA 1992 27
"A League of Their Own", Columbia Pictures, Industries, Inc, Culver City, CA 1992 16
"Fingerprints of God", Speechless, Steven Curtis Chapman; Sparrow Records, Sparrow Label Group; Brentwood, TN 1999 26
"Partners", MacGyver, Paramount Pictures Corporation, Hollywood, CA 1987 28
"What If Jesus Comes Back Like That", I Think About You, Collin Raye, Sony Corporation; Nashville, TN, 1995 39

CITATIONS TO THE OFFICIAL AND UNOFFICIAL REPORTS OF THE OPINIONS AND ORDERS

Courts

1. *Raymond C. Persik, et. al. v. Group Health Cooperative Inc., of WA, Mrs. Monica T. McCallie, et. al, Unknown Abortion Doctor, University of Washington Medical Center, Mr. Rob McKenna, Mr. Gary Locke, Ms. Christine O. Gregoire* , 05-35953, (9th Circ, 26 July 2007, ORDER)

2. *Persik, et. al. v. Group Health Cooperative Inc, of WA, et. al.* 05-35953, (9th Circ, 27 April 2007, MEMORANDUM)

3. *Raymond C. Persik, et. al. v. Group Health Cooperative Inc., of WA, Mrs. Monica T. McCallie, et. al, Unknown Abortion Doctor, University of Washington Medical Center, Mr. Rob McKenna, Mr. Gary Locke, Ms. Christine O. Gregoire,* 05-CV-00882TSZ, (D.C.W.Wash, 14 November 2005), MINUTE ORDER)

4. *Persik, et. al. v. Group Health Cooperative Inc., of WA, et. al.*, 05-CV-00882TSZ, (D.C.W.Wash, 26 August 2005, ORDER)

5. *Persik, et. al. v. Group Health Cooperative Inc., of WA, et. al,* 05-CV-00882TSZ, (D.C.W.Wash, 18 April 2005, ORDER)

6. May 31, 2004. Letter to Washington State Governor Gary Locke; Subject: September 27, 1994 Controversial Abortion at the University of Washington Health Sciences Center.
cc: Norm Maleng; King County Prosecuting Attorney; W554 King County Courthouse; 516 Third Avenue; Seattle, WA 98104
Governor's Response via E-mail dated June 17, 2004.

7. July 11, 2002. Letter to Washington State Attorney General Christine O. Gregoire; Subject: WA Statute 9.02.120. Unauthorized abortions – Penalty
Ombudsman Response via E-mail dated August 9, 2002

BASIS FOR JURISDICTION OF THE UNITED STATES SUPREME COURT

1. The U.S. Court of Appeals for the 9th Circuit denied the petitioner's appeal on April 27, 2007, *infra* at A-1. A timely Petition for Panel Rehearing was filed on 11th May 2007. The 9th U.S. Court of Appeals Circuit Justices GRABER, CLIFTON, and BEA denied the petition for rehearing on July 26, 2007, *infra* at C-1

2. U.S. Supreme Court Rule 13 allows for 90 days to file a Petition for Writ of Certiorari. In accordance with Rule 13 (3), "...if a petition for rehearing is timely filed in the lower court by any party, ... the

time to file the petition for writ of certiorari for all parties runs from the date of denial of rehearing..." Thus, this petition is normally timely filed on, or before, Wednesday, October 24, 2007.

3. The petitioner is currently still an active member of the United States Army Reserve, and [he] completed 3 sets of orders following the 9th Circuit order denying the Petition for Rehearing, *supra* at ¶ 1 and *infra* at C-1. 50 USCS Appx §§ 501-590. Soldiers' and Sailors' Civil Relief Act of 1940 (SSCRA) contains special provisions for members of the armed forces. 50 USCS Appx § 512. Territorial application; jurisdiction of courts; form of procedure states: "(2) When under this Act [50 USCS Appx. §§ 501 et seq] any application is required to be made to a court in which no proceeding has already been commenced with respect to the matter, such application may be made to any court".

4. Pursuant to 50 USCS Appx §§ 511, n. 2, "Persons covered by Act". The term "military service" as used in Soldiers' and Sailors' Act of 1940 (50 USCS Appx §§ 501-590) requires serviceman to be on active duty; concept includes one absent from duty for lawful cause and excludes from protection of statute one absent from duty for other than lawful cause, such as desertion. *Driver v. Driver*, 416 A2d 705 (36 Conn Supp 229, 1980)."

5. Pursuant to 50 USCS Appx § 521, n 5, "'Plaintiff' and 'defendant', in 50 USCS Appx §§ 501-590 § 201, should be given liberal construction." *In Adoption of a Minor*, 136 F2d 790 (78 US App DC 48, 1943).

6. On 23 July 2007, the U.S. Army's Civil Affairs and Psychological Operations Command issued voluntary Order Number 039931 for Major Raymond Charles Persik to perform voluntary duty from 27-29 August 2007 at Moffett Federal Airfield, California in order to complete preparation for instruction on Mission Essential Tasks for 15 September 2007 battle assembly. On 07 September 2007, the U.S. Army's Civil Affairs and Psychological Operations Command issued voluntary Order Number 047220, for Major Persik to attend a MMRB at Ft. Bragg, North Carolina with duty days from 28-30 September 2007.

7. Pursuant to 50 USCS Appx §§ 525. Statutes of limitations as affected by period of service, "The period of military service shall not be included..." *see* text *infra* at F-54. "Purpose of 50 USCS Appx § 525 is to extend time in which action could be brought by or against person in military service." *Van Heest v. Veech*, 156 A2d 301 (58 NJ Super 427, 1959). "50 USCS Appx § 525 should be liberally construed to protect rights of persons who have been obliged to drop their own affairs to take up burdens of nation." *Shell Oil Co. v. Industrial Com.*, 94 NE 2d 888 (407 Ill 186, 1950).

8. Additionally, pursuant to 50 USCS Appx §§ 516, "...any member of the reserve component ... who is ordered to report for military service shall be entitled to such relief and benefits during the period beginning on date of receipt of such order and ending on the date upon which such member reports...".

Thus, applying 50 USCS Appx §§ 516 and §§ 525, the petitioner maintains that [he] is entitled to a mandatory extension of 58 days to file this petition utilizing only two sets of orders cited.[4] 5. Specifically, pursuant to 50 USCS Appx §§ 516, Order Number 039931 serves to prevent the 90 day clock from starting until Mr. Persik reported for duty on August 27, 2007. 50 USCS Appx §§ 525 continues to suspend time until completion of duty on August 29, 2007. On 07 September 2007, Order Number 047220 serves to stop the 90 day clock again until 28 September 2007, and 50 USCS Appx §§ 525 again stops the clock from 28-30 September 2007. Therefore, this petition is timely filed if postmarked within the 58 additional days after the normal deadline of October 24, 2007, or 82 days[5], following [Persik]'s return to California on September 30, 2007. Therefore, this Petition is timely filed on, or before, Friday, December 21, 2007.[6]

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[4] Mr. Persik completed one additional set of orders in August 2007 which added 5 duty days. Order Number 039931 issued on the same day, July 23, 2007; therefore, this added military order added no additional time to file this petition.

[5] The 90 day clock only ran between August 30 – September 6, 2007 when [Persik] was not on military orders or pending duty on any military order. Thus, only 8 days expired, of the 90 day time period, to file a petition.

[6] The petitioner successfully argued the use of the SSCRA, at the U.S. Supreme Court level, in *Persik v. Colorado State University*, 542 U.S. 960(#03-1278, 541 U.S. 990, 2004), filed on January 22, 2004. The SSCRA allowed for a 236 day extension of the filing deadline in the case. Petitioner utilizes 50 USCS Appx §§ 516 because the vast majority of his personal time was spent completing preparation for a training class on 15 September 2007 and preparation for a military panel review board in Ft. Bragg, NC on 29 September 2007.

9. "Limitations provision of 50 USCS Appx § 525 is mandatory and not discretionary," *Estate of Wolf Commissioner*, 264 F2d 82 (1959). Finally, the petitioner cites: "the SSCRA makes no distinction between those who volunteer for active service and those who involuntarily are called to active duty from the Reserve components", *Contemporary Applications of the Soldiers' and Sailors' Civil Relief Act*, by Major James P. Pottorff, 132 Mil. L. Rev. 115, 118 (1991).

10. The United States Supreme Court can review this decision pursuant to U.S. Supreme Court Rule 10(a), if: "a United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter; ... or has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise for the exercise of this Court's supervisory power", and U.S. Supreme Court Rule 10(c)"or a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court".

11. The petitioner maintains that no notifications are required by U.S. Supreme Court Rule 29.4(b) or 29.4(c).[7]

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[7] Lead Appellant filed a "Notice that Case Involves Constitutionality of a United States Supreme Court Precedent where the United States is not a Party in any Official Capacity"

CONSTITUTIONAL PROVISIONS, TREATIES, STATUTES AND REGULATIONS

1. Pursuant to U.S. Supreme Court Rule 14.1(f) the Appendix, F-1 to F-68 , contains the text of the required provisions. Pursuant to U.S. Supreme Court Rule 33.1(d), "verbatim quotations required under Rule 14.1(f), if set out in the text of the brief rather in the appendix, are also excluded" from the page limit. Therefore, the petition is within the 9, 000 word length limitation required by U.S. Supreme Court, Rule 33 1(g)(i).

2. **Amendment I, U.S. Constitution.** F-4

3. Amendment IV, U.S. Constitution. F-4

4. Amendment V, U.S. Constitution. F-5

5. Amendment VI, U.S. Constitution. F-5

6. Amendment VIII, U.S. Constitution. F-5

7. Amendment IX, U.S. Constitution. F-6

8. Amendment X, U.S. Constitution. F-6

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on December 6, 2006; however, in late August 2006, [Persik] discovered the document did not appear on either the District court or the 9th COA docket. Thus, on August 23, 2006, [Persik] filed this document, with a memorandum, in the 9th COA. *See* Statement of the Case, *infra*, at ¶ 23.

9. Amendment XI, U.S. Constitution. F-6

10. Amendment XIII, U.S. Constitution. F-6

11. Amendment XIV, U.S. Constitution. F-7

12. 10 USCS § 331. Federal aid for State governments.. F-9

13. 10 USCS § 333 (1999) Interference with State and Federal law. F-9

14. 10 USCS § 380. Enhancement of cooperation with civilian law enforcement officials. F-10

15. 10 USCS § 814. Art. 14. Delivery of offenders to civil authorities. F-10

16. 10 USCS § 878. Art. 78. Accessory after the fact. F-11

17. 10 USCS § 881. Art. 81. Conspiracy. F-11

18. 10 USCS § 917. Art. 117. Provoking speeches or gestures. F-11

19. 16 USCS § 917. Congressional findings.. F-12

20. 18 USCS § 241. Conspiracy against rights. F-12

21. 18 USCS § 242. Deprivation of rights under color of law.. F-13

22. 18 USCS § 1341. Frauds and swindles. F-13

23. 18 USCS § 1512. Tampering with a witness, victim, or informant. F-14

24. 18 USCS § 1513. Retaliating against a witness, victim, or an informant.. F-17

25. 18 USCS § 1514. Civil action to restrain harassment of a victim or a witness.. F-18

26. 18 USCS § 1531. Partial-birth abortions prohibited.. F-18

27. 18 USCS § 1584. Sale into involuntary servitude. F-32

28. 18 USCS § 1951. Interference with commerce by threats or violence. F-32

29. 18 USCS § 1952. Interstate and foreign travel or transportation in aid of racketeering enterprises. F-34

30. 18 USCS § 1961. Definitions. F-35

31. 18 USCS § 2241 et. seq. Aggravated sexual abuse. F-40

32. 18 USCS § 2242. Sexual abuse.. F-42

33. 18 USCS § 2243. Abusive Sexual Contact. F-42

34. 28 USCS § 1654. Appearance personally or by counsel. F-44

35. 28 USCS § 1733. Government records and papers; copies. F-44

36. 28 USCS § 509. Functions of the Attorney General. Sec. 2537. Appointment Responsibilities and Compensation of the Special Counsel. F-43

37. 42 USCS § 1981. Equal rights under the law. F-45

38. 42 USCS § 1981a. Damages in cases of intentional discrimination in employment. F-45

39. 42 USCS § 1982. Property Rights of Citizens. F-45

40. 42 USCS § 1983. Civil action for deprivation of rights. F-46

41. 42 USCS § 1985. Conspiracy to interfere with civil rights. F-46

42. 42 USCS § 1986. Conspiracy to interfere with civil rights.. F-49

43. 42 USCS § 2000b-2. Personal suits for relief against discrimination in public facilities. F-49

44. 50 USCS Appx §§ 501-590. Soldiers' and Sailors' Civil Relief Act of 1940 (SSCRA). F-50 – F-54

45. 50 USCS Appx §§ 525. Statutes of limitations as affected by period of service. F-54

46. 50 USCS § 1801. Definitions; Electronic Surveillance. F-54

47. California Penal Code, § 205. Aggravated Mayhem. F-55

48. California Penal Code, § 207. Kidnapping defined. F-55

49. C.R.S. 13-6-106 (2002) Original Criminal Jurisdiction. F-56

50. C.R.S. 13-25-131 (1999) Civil actions – sexual assault – certain evidence presumed irrelevant. F-56

51. C.R.S. 18-1-602 (1999) Behavior of Another. F-57

52. C.R.S. 18-1-603 (1999) Complicity. F-58

53. C.R.S. 18-1-606 (2002) Criminal Liability of Corporations. F-58

54. C.R.S. 18-1-709 (2002) Entrapment. F-59

55. C.R.S. 18-2-201 (2002) Conspiracy. F-60

56. C.R.S. 18-2-206 (2002) Penalties for criminal conspiracy – when convictions barred. F-61

57. C.R.S. 18-3-207 (2002) Criminal extortion - aggravated extortion.. F-62

58. C.R.S. 24-5-101 (2002) Effect of Criminal conviction on employment rights. F-63

59. 35 P.S. § 780-112. Records of distribution of controlled substances.. F-64

60. 35 P.S. § 780-113. Prohibited acts; penalties. F-66

61. RCW 9.02.110. Right to have and provide. F-67

62. RCW 9.02.120. Unauthorized abortions – Penalty. F-67

STATEMENT OF THE CASE

1. On January 22, 1973, the United States Supreme Court created a federal right for women to end the life of an unborn child growing within their wombs by way of a myriad of procedures termed "abortion". The landmark, precedent-setting case was *Roe v. Wade*, 410 U.S. 113 (1973). In four previously filed petition for writ's of certiorari[8], and the respective four petitions for rehearing, Mr. Persik argued Defendant Mrs. Monica McCallie, et. al., utilized the procedure of abortion in a manner not intended by this Court by ending Angel Persik's life, [Persik]'s unborn son, on September 27, 2007 [Aplt's Apdx at D

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[8] (1) *Persik v. The People of Colorado*, 538 U.S. 995 (#02-875, 537 U.S. 1190, 2002), *Persik v. Colorado State University*, 542 U.S. 916 (#03-1278, 541 U.S. 990, 2004), *Persik v. Manpower, Inc.*, 542 U.S. 960 (#03-1473, 541 U.S. 1086, 2004) and *Persik v. Suthers, et. al.*, 549 U.S. ___ (# 06-471, 549 U.S. ___ , 2007).

008, ¶ 12 a], by way of a 22 week, 3 day controversial abortion, at the University of Washington Medical Center [UWMC] while under the primary care of Defendant Group Health Cooperative, Inc, of Washington State, [GHC]. Thus, Mr. Persik, or [Persik], maintains that the order issued by this Court on January 22, 1973, is subject to collateral attack.

2. Earlier, this year, on April 18, 2007, this Court upheld the 2003 prohibition against Partial-birth abortions, 18 USCS § 1531. This decision, in *Gonzales, Attorney General v. Carhart, et. al.*, 550 U.S, ___ (#05-380, 2007)), overturned this Court's previous interpretation in *Stenberg v. Carhart*, 530 U.S. 914 (2000). In the first case, or [*Gonzalez1*], this Court's decision references consideration of the *Gonzales, Attorney General v. Planned Parenthood Federation of America, Inc., et. al.*, 550 U.S. ___ (#05-1382, 2007)petition, which was on certiorari to the United States Court of Appeals for the 9th Circuit. [Persik] notes the 9th Circuit's Memorandum, in this case, *infra* at A-1, issued 11 days following the largest victory for "Pro Life" supporters since the 2006 passing of South Dakota's House Bill 1215 "which sought to prohibit the termination of an unborn life", South Dakota Right to Life, http://sdrtl.blogspot.com/2006/02/legislative-issues.html", 2006. [Persik], and many other pro life Americans, view this 2007 decision as a potential landmark change in the manner in which this Honorable Court views and defines life; therefore, [Persik] and the [BEARS] will continue this eight year litigation effort protecting life.

3. Recently, on December 12, 2007, Steven Ertelt wrote an article titled: "Ronald Reagan's Top Supreme Court Choice Would Have Opposed Abortion", Steven Ertelt, LifeNews.Com, http://www.lifenews.com/nat3529.html, 2007. Mr. Ertelt states: "Judge Clark could have persuaded Justice Anthony Kennedy to vote to overturn *Roe* as well". This is exactly what [Persik] and the entire "[BEAR] team" are praying will happen. The [BEARS] pray additional justices will also change their judicial views to votes protecting life from either conception, or the implanting of the fertilized female egg into the uterine wall. The 9th Circuit, known by the Pro Life community to be one of the very most liberal circuit courts in the United States, stated, *infra* at A-2: "Persik's complaint contains a generalized grievance against abortion and does not allege sufficient facts or jurisdictional basis for any federal claim for relief." [Persik] will argue, in this petition, how the taking of Angel Persik's life, followed by 13 years of alleged peonage, in violation of 42 USCS § 1994. Peonage., with several years of the peonage bordering on alleged violations of the federal, criminal statute 18 USCS § 1584, Involuntary Servitude, is NOT a "general grievance". Additionally, [Persik] will ask this Court to consider a myriad of options aimed at ensuring the Pro Life community will one day soon have the opportunity at overturning this Court's current precedence in *Roe, supra*, and in the event that this Court does not overturn *Roe* in the future, [Persik] will attempt to prevent the procedure of abortion from being used in a manner discussed in this petition and the 8

petitions previously filed. Again, most importantly, [Persik] and the [BEARS] pray this series of petitions, will influence the entire 9 members of this Court, and the entire U.S. Supreme Court staff, regarding the importance of every living human being commencing with the union of the sperm and the egg to form a fertilized egg. As a means to allow the opportunity for an abortion in cases of rape or incest, the [BEARS] "seek to change the abortion procedures in the case of rape or incest to limit abortions once the unborn child has a beating heart, *infra* at 26, Arg. Part I, ¶'s 1-3 and Aplt's Amnd Op Brief at 36, ¶ Arg 2 B (4) (c).

4. Before discussing the specific filings, involved in this Case, [Persik] will cite a recent statistic regarding one published Pro Life figure in America. "CBS News Poll: 54 Percent of Americans Take Pro-Life Position on Abortion", Steven Ertelt, LifeNews.Com, http://www.lifenews.com/nat3389.html, October 19, 2007. Thus, since this is the most conservative estimate [Persik] observed in the last few months, [he] maintains that there may soon exist a much larger majority of Americans choosing to defend life.

5. Additionally, [Persik] will again cite LifeNews.Com, in an effort to influence this Court to grant this petition. "In an interview with the CBS News program '60 minutes' scheduled for broadcast tonight, pro-life Supreme Court Justice Clarence Thomas says abortion was behind all of the attacks on him during his confirmation hearings. He called the confirmation process a 'High Tech Lynching'",

Steven Ertelt, LifeNews.Com, http://www.lifenews.com/nat3351.html, September 27, 2007. [Persik] maintains that [he], and the [BEARS}, has [have] legal recourse against not only [his] ex-wife, [McCallie], but *Roe, supra*, based on the alleged use of the death of [his] unborn son to abortion, on September 27, 1994. Discrimination, coupled with alleged, severe mal-practice, within the medical field of psychiatry, is the alleged mechanism utilized in efforts to prevent the Pro Life [Persik] from advancing in either a civilian occupation or [his] current military field. Thus, the Petitioner maintains that the comments by the Honorable Judge Thomas serve to confirm numerous perceptions cited in the litigation leading up to this petition and the previously filed petitions.

6. In an effort to prove the allegations, *supra* at ¶ 5, [Persik] previously argued that [his] viewing of the film "A League of Their Own", Columbia Pictures Corporation, 1992, on July 30, 1992, in Yakima, Washington, initiated the purported sham, or set the reference point to win the myriad of battles ahead. [Persik] maintains that pursuant to 8 Am Jur Proof of Facts (POF) p 153 (1960), Motion Pictures as Evidence, the "(1) foundation for admission of motion pictures, and (2) motion pictures of experiments", [he] would be authorized to utilize numerous movie excerpts, television excerpts and country music video clips, as evidence ultimately against the procedure of abortion, if this case, and previously filed petitions, is/are remanded to the lower court(s).

7. On, or about, April 22, 1994, Monica T. Persik, now [McCallie], conceived Angel Persik in either Boulder, or Denver, Colorado during a 3 day visit with the petitioner, [Persik], [Amd Op Brf at 51]. On, or about Friday, September 23, 1994, [GHC] authorized a PUBS test at [UWMC]. On the morning of September 27, 1994, the [Unknown Abortion Doctor] clearly stated that [Persik]'s unborn child had chromosomal abnormalities in addition to alleged Hydrocephalus due to Aqueductal Stenosis, [HC-AS], Xq28, [Aplt's Amnd Op Brf at 52, ¶ VI. Arg. 3 B. (6)(d)]. [Persik] already disagreed with [McCallie] over the diagnosis of [HC-AS] because the disease is generally determined after death and a subsequent autopsy.

8. Following a heated discussion between [Persik] and the [Unknown Abortion Doctor], regarding the percentage of DNA that is believed to be coded, [McCallie] proceeded to have an abortion. While in the operating room, at the Magnus Health Center, [UWMC], [McCallie] offered [Persik] a momentary option to cancel the abortion. It is not known by [Persik], to this day, why [he] did not leave with [his] wife, [Monica McCallie], and their unborn child, Angel Persik. In other litigation, [Persik] discusses scientific technology capable of influencing the human thought process in violation of numerous state (Cal Penal Code § 205 Aggravated Mayhem and C.R.S. 13-25-131 (1999) Civil Actions – Sexual Assault) and federal statutes (18 USCS § 2241. Aggravated Sexual Assault, et. seq.) as well as Amendment VIII, U.S. Constitution. [Persik]

maintains that this technology was potentially used as far back as 1994 in the [UWMC] operating room.

9. [Persik] divorced [McCallie] on June 13, 1997, and originally [McCallie] and [Persik] remained friends. However, in November 1998, [McCallie] issued [Persik] threats that [she] "was going to arrange to have [him] used since [he] loved helping people so much", and "[she] would arrange to have [him] put down for life so [he] would never walk again".

10. From January 16-22, 1999, [Persik] underwent voluntary therapy at Holy Spirit Hospital in Camp Hill, Pennsylvania where Dr. Elisabeth Dell' Orfano prescribed the major tranquilizer, Resperidal.[9,10] [Persik] maintains that the Holy Spirit staff knew [Persik] would be illegally arrested as [Persik] states in previous litigation.

11. Within 2 calendar months, from [McCallie]'s threats *supra* at ¶ 9, on January 28, 1999, Colorado State University Police [CSUPD] allegedly illegally arrested [Persik]. [Persik] plead guilty on February

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[9] On May 5, 2001, Persik explained [his] allegations of alleged unlawful use of drugs at both Holy Spirit Hospital, although possibly for a good reason, and on December 22, 2000, at Carlisle Hospital, in Carlisle, Pennsylvania, with a medical doctor, conducting a 5- year Quint physical, in St. Joseph, Missouri. [Persik] received a PULHES of 111111 following the physical.

[10] Medical staff, at Hill Air Force Base, Utah, advised [Persik] to stop using the drug on, or about, March 12, 1999 because of professional concern that the drug was ordered for the personal benefit of another man's political program.

1, 1999, for saying "Happy New Year" to an ex-female friend, and entering into a guilty plea for a M3 offense, Harassment Inconvenient Hours, C.R.S. 18-9-111(g) under the influence of the major tranquilizer *supra* at ¶ 10. [Persik] previously argued [his] 2nd Colo. Crim. 35(c) Motion to this Court in *Persik v. The People of Colorado*, 538 U.S. 995 (#02-875, 537 U.S. 1190, 2003).

12. The alleged illegal arrest at Colorado State University, *supra* at ¶ 11, forced [Persik] into selling [his] real property at 34518 10th Avenue SW[11]; Federal Way, Washington due to the fact [Persik] would not be able to legally obtain [his] 1999 Spring Semester disbursement of [his] student loan. Re/Max International, Inc., owned by a Colorado businessman, sold [Persik]'s property within 1 day of [Persik] signing a contract *circa* February 1999. In the fall of 1999, [Persik] attempted to return to Washington State where [he] was later threatened by a knife at a 7-11 Convenience Store in Spanaway, Washington, on November 13, 1999 and refused assistance at the Seattle office of the E.E.O.C. [Persik] returned to Colorado to attempt to withdraw [his] guilty plea and begin [his] federal casework in a state where abortion was not as prevalent.

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[11] The current value, of [Persik]s former property, moderately estimates the home at over 2x [Persik]'s 1999 selling price; this allegedly reflects how pro abortion groups, and/or pro abortion individuals, work to limit the future financial stability of Pro Life individuals with legitimate causes of action against *Roe*, *supra*.

13. On July 11, 2002, [Persik] completed [his] final version of a memorandum to Ms. Christine O. [Gregoire]. This memorandum details the manner in which [Persik] was allegedly used following [McCallie]'s threat *supra* at ¶ 9. Ms. Maureen Scharber, the Ombudsman, answered Mr. Persik, via e-mail at rcpersik@yahoo.com on Friday, August 9, 2002. She stated that "the governor, or a county prosecuting attorney, could initiate prosecutions or investigate crimes".

14. Thus, on May 31, 2004, [Persik] drafted a memorandum to Mr. Gary Locke, Governor of Washington State; Subject: September 27, 1994 Controversial Abortion at the University of Washington Health Sciences Center" [UWMC]. Governor Locke's staff answered this e-mail on June 17, 2004. Specifically, the response states:

> "Washington is a pro-choice state although not everyone agrees with this law. We regret the Governor cannot provide or authorize an investigation for you. Instead, we encourage you [to] retain an attorney to assist you in determining your rights in this matter."

15. In November and December 2004, [Persik] became increasingly concerned with [his] fears of a cover-up involving the death of [his] unborn son for political reasons when the Washington State

Governor's race came down to 723[12] votes in King County. Specifically, [Persik]'s concern involved the election of the Pro Choice Ms. Christine O. [Gregoire] over the Republican Party candidate who originally was declared the winner. More specifically, [Persik]'s concerns involve 42 USCS § 1971. Interference with freedom of elections.

16. [Persik] filed a pro life, Class Action complaint, consisting of two claims, on May 11, 2005, in the U.S. District Court for the Western District of Washington at Seattle, in an attempt to uncover the truth concerning the death of [his] son, begin a fight against abortion and potentially preserve the statutory right against Ms. [Gregoire] in the event the election[13] is later found to be fixed by pro abortion groups. [Persik] was immediately fired from [his] employment[14], in California, with Tucci Learning Solutions, Inc., discussed in the footnote *infra* at ¶ 28.

17. The Honorable Judge Thomas S. Zilly, issued an Order, on May 18, 2005, stating "the Complaint fails to meet the requirements of Fed. R. Civ. P. 8(a). Plaintiff also fails to provide a short and plain statement of facts showing he is entitled to relief",

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[12] The number 723 is one of several numbers that appears too many times not to arouse an element of suspicion in events surrounding matters pertaining to this case.

[13] [Persik] did not describe this element in any detail in the Complaint or any other lower Court proceedings.

[14] [Persik] alleges this loss employment is consistent with cites in previous documents filed in this Court where Ms. Kate Michaelman published threats against employment rights of pro life people.

[Aplt Apdx , D038-D039]. The Judge continues by stating: " *Roe* is well established Supreme Court precedent which this Court is bound to follow under the doctrine of stare decisis. *See Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992) at 860-61, 869". The court granted 60 days to file an amended complaint. *See* D-1.

18. [Persik] filed a timely Amended Complaint on July 18, 2005. [Persik] reduced the total number of paragraphs from 71 to 56; however, [Persik] added detail for clarity resulting in a slight increase in page size from 28 to 31 pages.

19. On August 26, 2005, [Persik] electronically filed a "Motion for Extension of Time, Pursuant to F.R.Civ. P., Rule 4(m), and [he] immediately traveled from San Francisco, California, via greyhound bus, to Olympia, WA, and than north to Seattle, WA to the Clerk's Office of the U.S. District Court for the Western District of Washington on the morning of August 30, 2005. [Persik] requested the Court place the seals on the Summons, and the clerk refused since the Honorable Judge Zilly dismissed the case, *infra* at B-1, on August 26, 2005 for essentially identical reasons stated in the May 18, 2005 Order, *infra* at D-1.

20. [Persik] filed a timely appeal on September 25, 2005, and the case was docketed in the 9th Circuit on September 28, 2005 upon receipt of the filing fees in the district court.

21. [Persik] filed a Motion to Extend Time to File the Amended Brief in the 9th Circuit due to fact [Persik] discovered the district court failed to rule on the "Motion for Extension of Time..." discussed *supra* at ¶ 19. The 9th Circuit granted this motion. [Persik] simultaneously filed a Motion, and an Amended Motion, to Reopen Case to Review the Final Order, Entered on August 26, 2005, to Ensure Finality due to NO DECISION on Motion for Extension of Time Filed on August 26, 2005 (D.C. Doc No.5) ORAL ARGUMENT REQUESTED", complete with a Proposed Order, electronically in the district court, [Aplt's Apdx, D047 – D052]. The deputy clerk, of the Western Washington District Court, filed a Minute Order, on November 14, 2005, denying Plaintiff's Amended Motion to Reopen the Case, and the request for oral argument, [Aplt's Apdx, D053], *see* D-3.

22. [Persik] filed an Opening Brief via United States mail on November 21, 2005. The 9th Circuit requested [Persik] cure a minor deficiency in the Certificate of Service which [Persik] timely submitted. [Persik] alleges that [his] home computer network was under a severe "Computer Network Attack", or [CNA], while attempting to draft [his] opening brief, *see* Appellant[s] Motion for Leave to File an Amended Opening Brief at 2-3, ¶ 3. This alleged CNA resulted in [Persik] losing numerous pages of work on a regular basis during document preparation.

23. On December 6, 2005, [Persik] drafted a "Notice that case Involves Constitutionality of a United

States Supreme Court Precedent where the United States is not a Party in any Official Capacity". When [Persik] later checked the 9th Circuit docket, *infra* at ¶ 24, [he] did not observe this document on either the 9th Circuit docket or the D. W. Wash. Docket sheet. [Persik] has the United States Postal Receipt for this mailing, and [he] remains concerned why this document is not on either court docket (until it was later re-filed in the 9th Circuit on August 23, 2006).

24. On August 5, 2006, [Persik] mailed an amended opening brief, a Motion for Leave to File an Amended Opening Brief and the Appellant[s] Motion to Exceed the Page Limitation. This Court denied the two motions on August 18, 2006. [Persik] filed a letter with the 9th Circuit Clerk's office in addition to the *Notice* discussed *supra* at ¶ 23 on August 23, 2006.

25. In March 2007, [Persik] filed an exceptional Notice of Related Cases in *Persik, et. al. v. Tucci Learning Solutions, Inc., et. al.* 06-07431 (N.D. Cal, 2006) clearly stating that [he] alleges all previously filed cases in the U.S. **Districts** of **Colorado** (3 cases) and **Western Washington (1 case)**, to be related cases, *See* fn, *infra*, at ¶ 28 for cite.

26. On April 27, 2007, GRABER, CLIFTON, and BEA, 9th Circuit Judges, dismissed [Persik], and the [BEARS]', appeal via a Memorandum for failure to comply with F.R.Civ.P., Rule 8(a) and categorized the case as a "general complaint against abortion".

27. Based on this Court's April 18, 2007 ruling in *Gonzalez1, supra* at Statement of the Case ¶ 2, and

[Persik]'s continuous discovery of new admissible evidence, the lead appellant, [Persik] drafted, and timely filed, a Petition for Panel Rehearing, and an Ex Parte Motion for the Appointment of Counsel, on May 11, 2007.

28. The three Judge panel of GRABER, CLIFTON, and BEA denied [Persik]'s Petition for Panel Rehearing on July 26, 2007 with a Mandate issuing on August 7, 2007.[15]

ARGUMENT

Part I. Will this Court consider reviewing, albeit possibly prematurely in this case, their precedent setting decision in *Roe v. Wade*, 410 U.S. 113 (1973) which has taken the lives of possibly over 50,000,00016 unborn children lives, in total since January 22, 1973, which is more than the sum of the fatalities, and wounded, in all American wars since the commencement of our battle for freedom in the American Revolutionary War, 1775-1783?17

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[15] A possible concern is the simple fact that this same day, August 7, 2007, Judge Whyte dismissed a new Title VII action in *Persik, et. al. v. Tucci Learning Solutions, Inc., and Atkins, Director EEOC Local Office*, C06-04731 (N.D.Cal., 2006), now on appeal in *Persik, et. al. v. Tucci, et. al.*, 07-17178 (9th Circ, 2007).

[16] *See, footnotes*, in "Questions for the U.S. Supreme Court", *supra* at i.

[17] *See footnotes* in "Questions for the U.S. Supreme Court", *supra* at i.

1. The time is upon this Nation to end at least 98 % of the multitude of procedures termed abortion. Petitioner, and the [BEARS] argue that even in the cases of incest or rape, this Nation can set limits on abortion based on the marvels of modern medicine.

2. Steven Curtis Chapman recorded an amazing song entitled the "Fingerprints of God", Speechless, Steven Curtis Chapman; Sparrow Records, Sparrow Label Group; Brentwood, TN 1999 "Fingerprints of God", song 6 on the cited compact disc, will be a foundation for scientific argument in this case. The artist sings the words: "From the First Beat of your Heart" at 1:36, of the 4:04 minute track.

3. Thus, rather than focusing on the violence, [Persik] and the [BEARS] urge this Court to continue forward to a more Pro Life Nation which teaches our people to protect our children from the day we, as humans, know they are in the womb, until they are old enough to take care of themselves. In the case of a rape, or incest, which we would all love to see eliminated, the [BEARS] will ask this Court to consider the beating of the human heart on an ultrasound, as the upper most bound for an abortion.

4. To prove the alleged wrongful use of abortion, [BEARS] can utilize both motion picture and television to show the loss of Angel Persik was allegedly accomplished for both an Equal Employment Opportunity Program and Anti-Domestic Violence awareness. In 8 Am Jur Proof of Facts (POF) p 153 (1960), Motion Pictures as Evidence, there are two applicable proofs: "(1)

foundation for admission of motion pictures, and (2) motion pictures of experiments. The motion picture, "A Few Good Men", Columbia Pictures Industries, Inc, Culver City, CA 1992, is one of many movies that Persik maintains [he] can introduce as evidence in a future Amended Complaint pursuant to: *Use of Motion Pictures as Evidence*, 62 ALR 2d 686 (1958), where here the best writers have emplaced a "safety net" if [Persik] chose to stand for the people of the U.S. In the episode "Partners", MacGyver, Paramount Pictures Corporation, Hollywood, CA 1987, [Persik] can show that the equal employment plan went as far as to already know the name of the professor, to recruit, at the University of Nebrask at Lincoln, [UNL], where [Persik] would attend graduate school in 1993. The team of MacGyver and Pete Thornton are up against their enemy Murdock, when Murdock, disguised as a woman, runs into a demolition zone from Harbison Street. Lincoln-42 called in the report in the episode. [Persik] obtained [his] Master of Science under the direction of Dr. Gerard Harbison, and [his] thesis was on a "Variable Temperature (VT), Magic Angle Spinning Probe for Solid State Nuclear Magnetic Resonance", Raymond Persik and UNL, Department of Chemistry, UNL, Lincoln, NE 1996.

5. [Persik] cites: "To prove motive, evidence of a defendant's other crimes, wrongs, or acts may not have to be similar to the offense with which the accused is charged in order to be admissible", *U.S. v Johnson*, 525 F.2d 999 (1975), certiorari denied in *U.S. v. Johnson*, 424 US 920 (1976), to introduce a legal basis for introducing [McCallie], et. al.'s,

alleged intentions. [Persik] again maintains that this Court can review this petition to prevent the loss of other innocent, UNBORN lives for political purposes. [Persik] reminds this Court that while serving with 1-33 Armor Regiment, under the command of COL Ken Smith, [he] received Orders 136-709[18], 1-11 Field Artillery (FA); 199 IN BDE (MTZ), Department of the Army, 17 July 1990 from the 9th Infantry Division at Ft. Lewis, WA. The petitioner requested to serve in Iraq, with the XVIIIth Airborne Corps, 82nd Airborne Division, which had an opening for a chemical officer; however, [he] was told that the 1-11 FA commander requested [him] by name. The address of Sarah Weddington, attorney of record in *Roe*, *supra*, was 709 14th Ave; Austin, TX. Also, C.R.S. 18-1-709 is Entrapment in CO. Furthermore, the address of the Women's Rights National Historic Park is 136 Fall Street; Seneca Falls, NY 13148. Thus, simply put, [Persik] alleges that [his] first unborn child, if a son, was sacrificed for women's, and minority equal employment rights, as well as other women's issues, which [he] does support. 28 USCS § 1733 (b). allows for admission of "authenticated copies ... records, papers or documents of any department ...of the United States...", *see* F-44.

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18 [Persik] pursued all legal actions by [his] own free will. [He] does not state, nor allege, that either the Department of the Army (DA), or the Department of Defense (DOD), has any involvement in any of the federal legal actions or the death of his unborn son in September 1994. Rather, [Persik] alleges someone knew [McCallie]'s intentions, and they (9th Infantry Division G-1 Personnel), placed a safety net for [Persik] to prove [his] allegations.

6. In addition, the petitioner feared possible surveillance, pursuant to 50 USCS § 1801, *supra*, occurred as early as September or October 1998 at Colorado State University and [his] home, and this alleged surveillance continued while working for Manpower at CU Wardenburg Health Center in February – March 2000. Additionally, 1801 L Street is the address of the main office of the Federal EEOC in Washington, D.C.. [Persik] requests this Court focus their attentions on the alleged wrongful use of the procedure of abortion, and together, WE, as a Nation work to build better protections for unborn children, anti-domestic violence and equal employment opportunity. Even within the liberal state of Washington, [Persik] maintains that [McCallie]'s abortion of their unborn son is beyond the legal design of RCW 9.02.110, Right to have and provide..

Part II: The Honorable Judge Thomas S. Zilly, [D.W.Wash-Seattle, 2005], states that the amended complaint fails to meet the requirements of F.R.Civ.P., Rule 8(a); will this Court remand this Case for the lead appellant, [Persik], to file a 2nd Amended Complaint, as motioned for on August 26, 2005, which will better comply with F.R.Civ.P., Rule 8(a), based upon knowledge obtained in December 2005 U.S. Army Reserve training, called association matrices, activities matrices and link diagrams?

1. In *Buckley v. Altheimer*, 2 FRD 285 (DC Ill, 1942), the "Court granted motion to strike complaint of 260 pages, which was highly argumentative both as to facts and law, and to which were attached 43

pages of exhibits." [Persik] maintains that [his] tendered amended complaint was extremely concise given the nature, and the alleged duration, of the allegations and issues raised. Thus 31 pages is more than a reasonable length for this petition.

2. In 5 Am Jur 2d Appellate Review § 819, the court states: "Amendment or Supplementation of Pleadings on Remand", pleadings may be amended upon remand. Specifically, "Where issues are explicitly intertwined, pleadings may be amended on remand", *Haines Pipeline Construction v. Montana Power Co.*, 830 P2d 1230 (1992). [BEARS] will amend Complaint Class Allegations [D025 ¶ 46b(1)], and the Prayer for Relief [D035 ¶ 54], to include very well defined boundaries for the circumstances in which abortion would be legal in the U.S.A., *see* Arg. Part I, ¶ 3, *supra*.

3. The petitioner again restates that [he] alleges this conspiracy, is in violation of: 42 USCS § 1981, § 1983, § 1985, § 1986, § 2000 e et. seq., and numerous federal criminal codes, such as 18 USCS § 241, § 242, § 1341, § 1512, § 1513, § 1514, § 1584, § 1951, § 1952 and § 1961. In addition, the petitioner alleges numerous violations of sections of C.R.S., outlined *infra* F-56 - F-64, as well as Amendments IV,VIII, XIII and XIV, U.S. Constitution. Therefore, [Persik] intentionally showed the intertwining of the cases while pushing for the appropriate forms of relief in each U.S. Supreme Court petition.

4. Finally, [Persik] maintains that F.R.Civ.P., Rule 8, "allows the plaintiff to plead two or more

statements in one claim cannot be construed as an admission against another alternative or inconsistent claim, *Henry v. Daytop Village, Inc*, 42 F.3d 89 (2nd Circ, 1994). In an un-cited reference, Persik maintains that the court must apply a rule 8(a) analysis to each claim of the Complaint. Thus, [Persik] clearly states that this legal analysis is not being accomplished within any of the legal cases [he] has worked on thus far. One of the claims, concerning the wrongful death action, in this case, deals with exact particulars contained point by point in the Amended Complaint, Aplt's Apdx [D016-D024] and the Amended Opening Brief dated August 4, 2006.

5. Persik again maintains that the Amd Cmplt is not in violation of F.R.Civ.P., Rule 8(a) as alleged *infra* at A-2, B-1 and D-1. Previously, justices utilized "*Carpenter v. Williams*, 85 F.3d 1015 (10th Circ, 1996) at 1016 and *Conley v. Gibson*, 355 U.S. 41 (1957) at 47 which state that "complaint must 'give the defendant fair notice of what the plaintiff's claim is and the grounds upon which it rests'". Rather, [Persik] maintains that this litigation is so extremely complex and deserves to be given all protections afforded to a pro se plaintiff-appellant (litigant in general) considering the benefits that could be afforded to the American people upon successful remand. [Persik] maintains that an abuse of F.R.Civ.P., Rule 8(a) occurs in a case "where complaint was unnecessarily complicated and verbose and rambled for more than 600 paragraphs and 240 pages, including 50-plus page 'overview' of alleged wrongful conduct", *In re. Westinghouse Sec.*

Litig., 90 F2d 696 (3rd Circ, 1996); however, [Persik] maintains that an abuse does not occur in a case involving the death of a man's, or a woman's for that fact, child, that is only 31 pages, and simultaneously seeks to someday overturn abortion.

Part III. Will this Court remand this Case with instructions for the 9th Circuit to grant the motions filed in connection with the Amended Opening Brief which in return may sway the 9th Circuit to further remand this Case?

1. "An appellate court may remand a case for the consideration of newly discovered evidence", *AG Pro, Inc. v. Sakraida*, 481 F2d 668 (5th Circ, 1973). However, before such a remand is ordered, the movant must show that his or her failure to discover the evidence in time for trial is not due to lack of diligence, *Toledo Scale Co. v. Computing Scale Co.*, 261 US 399 (1923).

2. Persik recently discovered additional evidence which even further solidifies the material presented in [his] previous case to this Court where [he] was concerned with the theory that Ms. Hudgins was in fact very anti-U.S. Army. In *Ex parte Hudgins*, 9 ALR 1361 (86 WVa 526, 1920), the Court states: "State law requiring able-bodied males between certain age to engage in some recognized occupation or profession during time of war, regardless of their means of support, is unconstitutional."

3. The legal ideas contained within the Petitioner's Amended Opening Brief open up a myriad of legal possibilities if this Court considers some of them. [Persik] maintains that remanding this petition with instructions for the 9th Circuit to grant the motion to file an amended opening brief, and exceed the page limits, would not be a waste of judicial resources. [Persik] informs this Court that shortly after the Court denied [his] amended opening brief, the Circuit offered litigants the opportunity to comment on rules affected oversized briefs.[19]

Part IV. Will this Court issue a ruling on the lead appellant representing a class that is not a corporation, rather an Un-Incorporated, Non-Profit Organization entitled "Bears4Babies" until Special Counsel or another qualified counsel can be appointed?

1. [Persik], and the [BEARS], are not a corporation. 28 USCS § 1654 "allows non-attorneys to appear in propria persona in his own behalf'. [Persik] is representing himself, as well as the Class which is, again, NOT A CORPORATION. "President and founder of non-profit religious corporation was not permitted to represent corporation in tax exemption proceedings; right to conduct one's own case pursuant to 28 USCS § 1654 has never been enlarged to permit individual, who was not attorney, to represent corporate party", *Strong Delivery Ministry*

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[19] However, [Persik] was the alleged victim of either an alleged, attempted murder on I-680/280 on August 21, 2006; therefore, [he] only had the opportunity to focus on *Persik, v. Suthers, et. al., supra.*

Assoc. v. Board of Appeals, 543 F2d 32 (7th Circ, 1976), [Amnd Op Brf ¶ VI. Arg 1 , p 27-31].

2. [Persik] maintains that as an alternative to allowing him to represent the class, until counsel can be located, this situation allows for the rare opportunity, since racketeering activities affect the financial services industry, via money laundering, that Special Counsel could be appointed in this action pursuant to 28 USCS § 509. Functions of the Attorney General Sec. 2537, Appointment Responsibilities and Compensation of Special Counsel, which states, in section (b):

> "(1) supervise and coordinate investigations and prosecutions within the Department of Justice of fraud and other criminal activity in and against the financial services industry, including, to the extent consistent with the independent counsel provision of chapter 40 of 28 U.S.C., any such activity by any current or former elected official or high-level executive branch official or any member of the immediate family of any such official;
>
> (2) ensure that Federal law relating to civil enforcement, asset seizure and forfeiture, money laundering ... against the financial services industry; and ...".

Part V. Pursuant to established case law, this Court can open up all previously filed Petitions since all petitions allegedly have their roots in the same alleged unlawful abortion; thus, will this Court

revisit *Persik v. Colorado, infra*, *Persik v. Colorado State University, infra*, *Persik v. Manpower Inc., infra*, and *Persik v. Suthers, Colorado Attorney General, et. al., infra*?

1. This case, and four previous cases, filed in this Court, stem from the same incident, the loss of [Persik]'s unborn son to the procedure of abortion on September 27, 1994. "If Certiorari is denied earlier in a litigation, and a subsequent petition for certiorari is later granted, ..., may consider questions raised by both petitions", *Chessman v. Teets*, 354 US 156 (1957) and *Mercer v. Theriot*, 377 US 152 (1964).

2. Thus, if this Court grants this petition, will this Court exercise it's authority and revisit the petitions for writ, and the petitions for rehearing, in: (a) *Persik v. Colorado State University, supra* at E-3,7, (b) *Persik v. Manpower Inc.*, 542 U.S. 960 (#03-1473, 541 U.S. 1086, 2004), *supra* at E-2,6 (c) *Persik v. Colorado*, 538 U.S. 995 (#02-875, 537 U.S. 1190, 2003), *supra* at E-4,8, and *Persik v. Suthers, Colorado Attorney General, et. al.*, 549 U.S. ____ (#06-471, 549 U.S. ___, 2006), *supra* at E-1,5. Thus, affording this Nation the opportunity for unparalleled changes in the manner in which this Nation's courts treat equality, domestic violence and protect our children from before birth through adulthood. [Persik] promises this Court that [he], and the [BEARS], truly have the best interest of the American people in their thoughts, plans and prayers.

Part VI. The lower U.S. District Court issued an order dismissing the Plaintiff[s]-Appellant[s]' case without prejudice; will this Court review the suggested changes, at Appellant's Amended Opening Brief, ¶ Argument 1 B (4), to the F.R.A.P. via the "Rules Enabling Act", 28 USCS § 2072 (28 USCS § 2071 et. seq.)?

1. Specifically, the [BEARS] propose the U.S. Supreme Court change F.R.A.P., Rule 3 and 4, as outlined in the Amd Opn Brf at ¶ VI Arg 1B(4), to allow a U.S. Court of Appeals jurisdiction to try a case involving a U.S. Supreme Court precedent, or an issue that a U.S. District Court judge interprets, as a future U.S. Supreme Court case setting precedent. Thus, the U.S. Supreme Court would later hear this case on direct appeal.

2. Proposed Procedure. The U.S. District Court will dismiss the case, involving Supreme Court precedent (current or future) without prejudice, and the Plaintiff[s]-Appellant[s] will appeal the decision in accordance with the following procedures; thus, the U.S. Circuit Court will become the trial court, and the U.S. Supreme Court will have authority to hear the case upon direct appeal:

(a) F.R.A.P., Rule 3. Appeal as of Right – How Taken

(i) Amend to add: (a) (5) An appeal of a United States District Court involving a current, or future, United States Supreme Court precedent, dismissed without prejudice is taken to serve notice

upon the United States Court of Appeals that the case will be tried in the appellate court.

(ii) Amend to add: (c) (1) (D) The Notice of Appeal will include a one line statement "that the case involves constitutionality of a United States Supreme Court precedent", and a Appellant[s] will serve a separate "Notice that Case involves Constitutionality of a U.S. Supreme Court Precedent".

(b) F.R.A.P., Rule 4. Appeal as of Right – When Taken

Amend to add: (a) (8) Effect of Case Involving Constitutionality of a United States Supreme Court Precedent.

(i) If the United States is not a party, notice of appeal will be accompanied with a "Notice that Case Involves Constitutionality of a United States Supreme Court Precedent where the United States of America is not a party in any Official Capacity".

(ii) If the United States is a party, notice of appeal does not need to be accompanied with a separate Notice that Case Involves Constitutionality of a United States Supreme Court Precedent; however, the United States party will provide "Notice that Case Involves Constitutionality of a United States Supreme Court Precedent" to the United States Attorney General.

Part VII. Will this Court issue Mandamus compelling the Governor of Washington State, Defendant [Gregoire], to request a criminal investigation be conducted, IAW WA State law, by either the King County, Washington State prosecuting attorney or the Washington State Attorney General's office, as a means to both uncover the truth surrounding the death of Angel Persik (Angel's correct diagnosis), and to send the radical pro choice, and radical pro life, people, or groups, a clear message on how conflicts , surrounding abortion, should be peacefully resolved within a democracy?

1. [Persik] maintains this Court can still issue an order of Mandamus pursuant the ruling in *National Wildlife Federation (N.W.F.) v. The United States of America, et. al.,* 626 F. 2d 917 (1980), or to state this in a clearer manner, at 917, *N.W.F., supra*, the court states: "remedy of mandamus is not precluded because the federal official at issue is the President of the United States, 28 USCA. § 1361".

2. Therefore, [Persik] maintains that mandamus is an appropriate venue to uncover the facts in this case. Most importantly, if this Nation truly wants to send messages of non-violence, this is the perfect opportunity. Although it has taken many years to accomplish, the investigation into the facts in this case have produced no physical injuries to any abortion doctors; however, this is not to say that the [BEARS] will not be happy if every one of these doctors chose a new, honest profession.

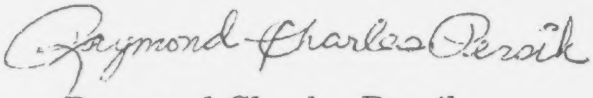
3. [Persik] is not attempting to seek revenge on any individual person over the loss of [his] unborn son; [he] simply wants the truth to be revealed to prevent another child from being lost for political reasons, and to prevent the emotional pain and suffering experienced by a parent who loves children as much as the men and women who make up the extended [BEAR] family. [Persik] maintains that a court order of mandamus directing the King County Prosecutor's office, or the WA Attorney General's office, to open an investigation, is truly a peaceful outcome to 13 years of wondering what the truth really is.

CONCLUSION

The petitioner prays that this honorable Court grants this Petition, and subsequently remands this Case to the 9th Court of Appeals with either orders to remand to the district court or grant the lead appellant's amended opening brief filed in August 2006. [Persik] maintains that [he] is truly blessed to be representing a class that is placing this Nation's **unborn children**, our **handicapped**, our **growing children** and the **building of our equal employment case law 1st**, until the day that this Nation truly does respect and understand in entirety the meaning of the words "EQUAL". The [BEARS] merely ask this Court, in its entirety, to understand the words contained within the song "What If Jesus Comes Back Like That", I Think About You, Collin Raye, Sony Corporation; Nashville, TN, 1995. WHAT IF an authorized abortion removes such a child from this world?

WHEREFORE THE REASONS PRESENTED IN THIS PETITION, the Petitioner prays this Honorable Court will GRANT this Petition for Writ of Certiorari to the 9th Circuit Court of Appeals in San Francisco, California.

Respectfully re-submitted this 27th day of February 2008.



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APPENDIX

Raymond Charles Persik, et. al. v. Group Health Cooperative Inc., of WA, Mrs. Monica T. McCallie, et. al, Unknown Abortion Doctor, University of Washington Medical Center, Mr. Rob McKenna, Mr. Gary Locke, Ms. Christine O. Gregoire, #07-_____

APPENDIX A: UNITED STATES COURT OF APPEALS

APRIL 27, 2007, 9th CIRC. ORDER

FILED

NOT FOR PUBLICATION

APR 27 2007

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

RAYMOND C. PERSIK, Plaintiff-Appellant, v. GROUP HEALTH COOPERATIVE INC, of Washington State; et al., Defendants-Appellees.	No. 05-35953 D.C. No. CV-05-00882-TSZ MEMORANDUM *

Appeal from the United States District Court
For the Western District of Washington
Thomas S. Zilly, District Judge, Presiding

Submitted April 16, 2007 **

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* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

Before: GRABER, CLIFTON, and BEA, Circuit Judges.

Raymond C. Persik appeals pro se from the district court's order dismissing without prejudice his action for failure to comply with Fed. R. Civ. P. 8(a). We have jurisdiction under 28 USC § 1291. We review for abuse of discretion, *United States v. Barrera-Moreno*, 951 F.2d 1089, 1091 (9th Cir. 1991), and we affirm.

A complaint must contain a "short and plain statement" of the basis for jurisdiction and the claims for relief. See Fed. R. Civ. P. 8(a). Persik's complaint contains a generalized grievance against abortion and does not allege sufficient facts or jurisdictional basis for any federal claim for relief. The district court, therefore, did not abuse its discretion by dismissing the action under Fed. R. Civ. P. 8(a). See *McHenry v. Renne*, 84 F.3d 1172, 1177 (9th Circ, 1996).

Persik's remaining contentions are also unpersuasive.

AFFIRMED.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

APPENDIX B: UNITED STATES DISTRICT COURT ORDERS

AUGUST 26, 2006, D.C.W.WASH. ORDER

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RAYMOND C. PERSIK, et. al., Plaintiffs, v. GROUP HEALTH COOPERATIVE INC., OF WASHINGTON, et. al., Defendants.	No. C05-882Z ORDER

On May 18, 2005, the Court, after reviewing the Plaintiff's original complaint, issued an Order requiring the Plaintiff to amend his complaint to meet the requirements of Fed. R. Civ. P. 8(a). Order, docket no.2. The Plaintiff filed an amended complaint, docket no. 3. The Plaintiff's amended

complaint fails to meet the requirements of Fed. R. Civ. P. 8(a).

Plaintiff fails to state a statutory or common law basis for his claims. Plaintiff also fails to provide a short and plain statement of facts showing he is entitled to relief. The Plaintiff's amended complaint asks the Court to overturn the United States Supreme Court decision Roe v. Wade, 410 U.S. 113 (1973). Although the amended complaint urges the Court to ignore Roe's precedential effect, the Court cannot. See Amended Complaint, docket no. 3, at 3. Roe is well-established Supreme Court precedent which this Court is bound to follow under the doctrine of stare decisis. See Planned Parenthood of Southeastern Pennsylvania v. Casey, 505 U.S. 833, 860-61, 869 (1992). The Court DISMISSES the

Plaintiff's complaint without prejudice for failure to meet the requirements of Fed. R. Civ. P. 8(a).

IT IS SO ORDERED.

DATED this 26th day of August, 2005

s/Thomas S. Zilly
Thomas S. Zilly
United States District Judge

APPENDIX C: ORDERS ON REHEARING and JUDGMENT

JULY 26, 2007 9TH CIRC. ORDER on REHEARING

UNITED STATES COURT OF APPEALS

JUL 26 2007

FOR THE NINTH CIRCUIT

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

RAYMOND C. PERSIK, Plaintiff-Appellant, v. GROUP HEALTH COOPERATIVE INC, of Washington State; et al., Defendants-Appellees.	No. 05-35953 D.C. No. CV-05-00882-TSZ Western Washington (Seattle) ORDER

Before: GRABER, CLIFTON, and BEA, Circuit Judges.

We deny Persik's motion for appointment of counsel and petition for panel rehearing.

No further filings will be accepted in this closed appeal.

AUGUST 7, 2007 9TH CIRCUIT JUDGMENT

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

RAYMOND C. PERSIK, Plaintiff-Appellant, v. GROUP HEALTH COOPERATIVE INC, of Washington State; et al., Defendants-Appellees.	No. 05-35953 D.C. No. CV-05-00882-TSZ JUDGMENT

Appeal from the United States District Court for the Western District f Washington (Seattle).

This cause came on to be heard on the Transcript of the Record from the United States District Court for the Western District of Washington (Seattle) and was duly submitted.

On consideration whereof, it is now here ordered and adjudged by this Court, that the judgment of the said District Court in this cause be, and hereby is AFFIRMED.

Filed and entered 04/27/07[20]

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[20] Lead Plaintiff-Appellant received this Judgment after the Order denying the Petition for Panel Rehearing on July 26, 2007, and [he] notes a MANDATE ISSUED on August 07, 2007 on the PACER docket sheet.

APPENDIX D: MISCELLANEOUS ORDERS

MAY 18, 2005 D.C.W.WASH. ORDER

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RAYMOND C. PERSIK, et. al., Plaintiffs, v. GROUP HEALTH COOPERATIVE INC., OF WASHINGTON, et. al., Defendants.	No. C05-882Z ORDER

The Court, having reviewed plaintiff's complaint, hereby finds that the complaint fails to meet the requirements of Fed. R. Civ. P. 8(a). Plaintiff fails to state a statutory or common law basis for his claims. Plaintiff also fails to provide a short and plain statement of facts showing he is entitled to relief.

The Plaintiff's complaint appears to request the Court overturn the United States Supreme Court decision Roe v. Wade, 410 U.S. 113 (1973). Roe is well-established Supreme Court precedent which this Court is bound to follow under the doctrine of stare decisis. See Planned Parenthood of Southern Pennsylvania v. Casey, 505 U.S. 833, 860-861, 869 (1992). The Court advises Plaintiff that his complaint will be dismissed without prejudice unless he files within 60 days of the date of this Order an amended complaint meeting the requirements of Rule 8(a).

IT IS SO ORDERED.

DATED this 18th day of May, 2005

s/Thomas S. Zilly
Thomas S. Zilly
United States District Judge

NOVEMBER 14, 2005 D.C.W.WASH. MINUTE ORDER

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RAYMOND C. PERSIK, et. al., Plaintiffs, v. GROUP HEALTH COOPERATIVE INC. OF WASHINGTON, et.al., Defendants.	No. C05-882Z MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge:

(1) The Court DENIES Plaintiff's Amended Motion to Reopen Case to review the Final Order, Entered on August 26, 2005, to Ensure Finality Due to No Decision on Motion for Extension of Time Filed on August 26, 2005, docket no. 12, and denies his request for oral argument. There is no need to reopen this case. The Court's Order of August 26, 2005, docket no. 6, dismissed Plaintiff's complaint without prejudice. That Order had the effect of terminating Plaintiff's Motion for Extension of Time Pursuant to Rule 4(m), Federal Rules of Civil

Procedure, docket no. 5. Plaintiff's motion was moot in light of the Court's dismissal of the case.

(2) The clerk is directed to send a copy of this Minute Order to all counsel of record.

Filed and entered this 14th day of November, 2005.

BRUCE RIFKIN, Clerk

s/Casey Condon

By _____
Casey Condon
Deputy Clerk

APPENDIX E: ORDERS of the SUPREME COURT OF THE UNITED STATES

I. U.S. SUPREME COURT ORDERS ON PETITION FOR WRITS OF CERTIORARI

A. DECEMBER 4, 2006, Re: *Persik v. Suthers, et. al.*, 549 U.S. ___ (#06-471, 2006)

Supreme Court of the United States
Office of the Clerk
Washington, D.C. 20543

William K. Suter
Clerk of the Court
(202) 479-3011

December 4, 2006

Mr. Raymond Charles Persik
P.O. Box 3553
Santa Clara, CA 95055

Re: Raymond Charles Persik
v. John W. Suthers, Attorney General of Colorado, et al.
No. 06-471

Dear Mr. Persik:

The Court today entered the following order in the above entitled case:

The petition for a writ of certiorari is denied.

Sincerely,

s/William K Suter
William K. Suter, Clerk

B. JUNE 7, 2004, Re: *Persik v. Manpower, Inc.*, 541 U.S. 990 (#03-1473, 2004)

Supreme Court of the United States
Office of the Clerk
Washington, D.C. 20543-0001

William K. Suter
Clerk of the Court
(202) 479-3011

June 7, 2004

Mr. Raymond Charles Persik
7079 West 84th Way
Apt 311
Arvada, CO 80003

Re: Raymond Charles Persik
v. Manpower Inc.
No. 03-1473

Dear Mr. Persik:

The Court today entered the following order in the above entitled case:

The petition for a writ of certiorari is denied.

Sincerely,

s/William K Suter

William K. Suter, Clerk

C. APRIL 19, 2004, Re: *Persik v. Colorado State University*, 541 U.S. 990 (#03-1278, 2004)

Supreme Court of the United States
Office of the Clerk
Washington, D.C. 20543-0001

William K. Suter
Clerk of the Court
(202) 479-3011

April 19, 2004

Mr. Raymond Charles Persik
7079 West 84th Way
Apt 311
Arvada, CO 80003

Re: Raymond Charles Persik
v. Colorado State University
No. 03-1278

Dear Mr. Persik:

The Court today entered the following order in the above entitled case:

The petition for a writ of certiorari is denied.

Sincerely,

s/William K Suter

William K. Suter, Clerk

D. FEBRUARY 24, 2003, Re: *Persik v. Colorado*, 537 U.S. 1190 (#02-875, 2002)

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, D.C. 20543

February 24, 2003

Mr. Raymond Charles Persik
2519 S. Shields Street, 1K
#202
Fort Collins, CO 80526

Re: Raymond C. Persik
v. Colorado
No. 02-875

Dear Mr. Persik:

The Court today entered the following order in the above entitled case:

The petition for a writ of certiorari is denied.

Sincerely,

s/William K Suter

William K. Suter, Clerk

II. U.S. SUPREME COURT ORDERS ON PETITIONS FOR REHEARING

A. FEBRUARY 20, 2007, Re: *Persik v. Suthers, et. al.*, 549 U.S. ____ (#06-471, 549 U.S. ____ 2006)

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, D.C. 20543

William K. Suter
Clerk of the Court
(202) 479-3011

February 20, 2007

Mr. Raymond Charles Persik
P.O. Box 3553
Santa Clara, CA 95055

Re: Raymond Charles Persik
v. John W. Suthers, Attorney General of Colorado, et al.
No. 06-471

Dear Mr. Persik:

The Court today entered the following order in the above entitled case:

The petition for rehearing is denied.

Sincerely,

s/William K Suter

William K. Suter, Clerk

B. AUGUST 23, 2004, Re: *Persik v. Manpower, Inc.*, 542 U.S. 960 (#03-1473, 541 U.S. 1086, 2004)

Supreme Court of the United States
Office of the Clerk
Washington, D.C. 20543

William K. Suter
Clerk of the Court
(202) 479-3011

August 23, 2004

Mr. Raymond Charles Persik
2519 S. Shields Street, 1K
#202
Fort Collins, CO 80526

Re: Raymond C. Persik
v.
Manpower, Inc.
No. 03-1473

Dear Mr. Persik:

The Court today entered the following order in the above entitled case:

The petition for rehearing is denied.

Sincerely,

s/William K Suter

William K. Suter, Clerk

C. JUNE 14, 2004, Re: *Persik v. Colorado State University*, 542 U.S. 916 (#03-1278, 541 U.S. 990, 2004)

Supreme Court of the United States
Office of the Clerk
Washington, D.C. 20543-0001

William K. Suter
Clerk of the Court
(202) 479-3011

June 14, 2004

Mr. Raymond Charles Persik
7079 West 84th Way
Apt 311
Arvada, CO 80003

Re: Raymond Charles Persik
v. Colorado State University
No. 03-1278

Dear Mr. Persik:

The Court today entered the following order in the above entitled case:

The petition for rehearing is denied.

Sincerely,

s/William K Suter

William K. Suter, Clerk

D. APRIL 21, 2003, Re: *Persik v. Colorado*, 538 U.S. 995 (#02-875, 537 U.S. 1190, 2002)

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, D.C. 20543

April 21, 2003

Mr. Raymond Charles Persik
2519 S. Shields Street, 1K
#202
Fort Collins, CO 80526

Re: Raymond C. Persik
v. Colorado
No. 02-875

Dear Mr. Persik:

The Court today entered the following order in the above entitled case:

The petition for rehearing is denied.

Sincerely,

s/William K Suter

William K. Suter, Clerk

APPENDIX F: TREATISES, CONSTITUTIONAL AUTHORITIES AND STATUTES

I. INTERNATIONAL TREATISES

1. International Covenant on Civil and Political Rights, 999 UNTS 171 (1966).

Authentic texts: English French, Chinese, Russian and Spanish.
Entry into force 23 March 1976, In accordance with Article 49.
Entry into force, in the United States, on 8 September 1992.

MULTILATERAL

Preamble

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the Unite Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice an peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

Applicable articles

Article 7. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Article 8. 1. No one shall be required to perform forced or compulsory labor.

2. No one shall be held in servitude.

3. ...

Article 23. 1. The family is the natural and fundamental group of society and is entitled to protection by society and the State.

2. The right of men and women of marriageable age to marry and to found a family shall be recognized.

3. No marriage shall be entered into without the free and full consent of the intending spouses.

4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

2. Convention on the Recognition of Divorces and Legal Separations, 1972 UNTS 487 (1970).

Concluded at The Hague on 1 June 1970

Multilateral

The States signatory to the present Convention,

Desiring to facilitate the recognition of divorces and legal separation obtained in their respective territories,

Have resolved to conclude a Convention to this effect, and have agreed on the following provisions:

Article 1. The present Convention shall apply to the recognition in one Contracting State of divorces and legal separations obtained in another Contracting State which follow judicial or other

proceedings officially recognized in that State and which are legally effective there.

The Convention does not apply to findings of fault or to ancillary orders pronounced on the making of a decree of divorce or legal separation; in particular, it does not apply to orders relating to pecuniary obligations or to the custody of children.

Article 2. Such divorces and legal separations shall be recognized in all other Contracting States, ...

II. U.S. CONSTITUTIONAL AMENDMENTS

1. Amendment I, U.S. Constitution. Religious and political freedom.

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peacefully to assemble, and to petition the Government for a redress of grievances."

2. Amendment IV, U.S. Constitution. Unreasonable searches and seizures.

". The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

3. Amendment V, U.S. Constitution. Criminal actions-Provisions concerning-Due process of law and just compensation clauses.

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

4. Amendment VI, U.S. Constitution. Rights of the accused.

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense."

5. Amendment VIII, U.S. Constitution. Excessive Bail, Fines, Punishments.

"Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted."

6. Amendment IX, U.S. Constitution. Construction of Enumerated Rights.

"The enumeration in the Constitution, or certain rights, shall not be construed to deny or disparage others retained by the people."

7. Amendment X, U.S. Constitution. Reserved Powers to the States.

"The Powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

8. Amendment XI, U.S. Constitution. Suits Against States – Restriction of Judicial Power.

"The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State."

9. Amendment XIII, U.S. Constitution. § 1 Slavery Abolished and § 2. Power to enforce amendment.

"Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the

United States, or any place subject to their jurisdiction. Congress shall have power to enforce this article by appropriate legislation."

10. Amendment XIV, U.S. Constitution. Citizenship; Privileges and Immunities; Due Process; Equal Protection; Apportionment of Representation; Disqualification of Officers; Public Debt; Enforcement.

"Sec. 1 [Citizens of the United States.] All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Sec 2 [Representatives-Power to reduce apportionment.] Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the: choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the

United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Sec. 3 [Disqualification to hold office.] No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each House, remove such disability.

Sec. 4 [Public debt not to be questioned-Debts of the Confederacy and claims not to be paid.] The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slaves; but all such debts, obligations, and claims shall be held illegal and void.

Sec. 5 [Power to enforce amendment.] The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

III. FEDERAL STATUTES

A. 10 USCS

1. 10 USCS § 331. Federal aid for State governments

Whenever there is an insurrection in any State against its government, the President may, upon the request of its legislature or its governor if the legislature cannot be convened, call into Federal service such of the militia of the other States, in the number requested by that State, and use such of the armed forces as he considers necessary to suppress the insurrection.
(Aug. 10, 1956, ch 1041, § 1, 70A Stat. 15.)

2. 10 USCS § 333 (1999) Interference with State and Federal law.

The President, by using militia or the armed forces, or both, or by any other means, shall take such measures as he considers necessary to suppress, in a State, and insurrection, domestic violence, unlawful combination, or conspiracy, if it-
(1) so hinders the execution of the laws of that State, and of the United States within the State, that any part or class of its people is deprived of a right, privilege, immunity, or protection named in the Constitution and secured by law, and the constituted

authorities of that State are unable, fail, or refuse to protect that right, privilege, or immunity, or give that protection; or

(2) opposes or obstructs the execution of the laws of the United States or impedes the course of justice under those laws.

In any situation covered by clause (1), the State shall be considered to have denied the equal protection of the laws secured by the Constitution.

(Aug. 10, 1956, ch 1041, § 1, 70A Stat. 15.)

3. 10 USCS § 380. Enhancement of cooperation with civilian law enforcement officials.

(a) The Secretary of Defense, in cooperation with the Attorney General, shall conduct an annual briefing of law enforcement personnel of each State (including law enforcement personnel of the political subdivisions of each State) regarding information, training, technical support, and equipment and facilities available to civilian law enforcement personnel from the Department of Defense...

(b)-(c) Not shown in appendix here

4. 10 USCS § 814. Art. 14. Delivery of offenders to civil authorities.

(a) Under such regulations as the Secretary concerned may prescribe, a member of the armed forces accused of an offense against civil authority may be delivered, upon request, to the civil authority for trial.

(b) When delivery under this article is made to any civil authority of a person undergoing sentence of a court-martial, the delivery, if followed by conviction in a civil tribunal, interrupts the execution of the sentence of the court-martial, and the offender after having answered to the civil authorities for his offense shall, upon the request of competent military authority, be returned to military custody for the completion of his sentence.

5. 10 USCS § 878. Art. 78. Accessory after the fact.

Any person subject to this chapter who, knowing that an offense punishable by this chapter has been committed, receives, comforts, or assists the offender in order to hinder or prevent his apprehension, trial, or punishment shall be punished as a court-martial may direct.

6. 10 USCS § 881. Art. 81. Conspiracy.

Any person subject to this chapter who conspires with any other person to commit an offense under this chapter shall, if one or more of the conspirators does an act to effect the object of the conspiracy, be punished as a court-martial may direct.

7. 10 USCS § 917. Art. 117. Provoking speeches or gestures.

Any person subject to this chapter who uses provoking or reproachful words or gestures towards any other person subject to this chapter shall be punished as a court-martial may direct.

B. 16 USCS

8. 16 USCS § 917. Congressional findings.

"The Congress finds that – (4) the conservation and protection of certain species of whales, including the California gray, bowhead, sperm, and killer whale, are of particular interest to citizens of the United States;..."

C. 18 USCS

1. 18 USCS § 241. Conspiracy against rights.

If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured. They shall be fined not more than $10,000 or imprisoned not more than ten years, or both; and if death results, they shall be subject to imprisonment for any term of years or for life.

Clause making conspirator ineligible to hold office was omitted as incongruous because it attaches ineligibility to hold office to a person who may be a private citizen and who was convicted of conspiracy to violate a specific statute. There seems to be no reason for imposing such a penalty in the case of one

individual crime, in view of the fact that other crimes do not carry such a severe consequence. The experience of the Department of Justice is that this unusual penalty has been an obstacle to successful prosecution for violations of the act. Mandatory punishment provision was rephrased in the alternative because the court has this discretion by making use of its power to suspend sentence under 18 USCS § 3651.
Minor changes in phraseology were made.

2. 18 USCS § 242. Deprivation of rights under color of law.

"Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects and inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; and if bodily injury results shall be fined under this title or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life."

3. 18 USCS § 1341. Frauds and swindles.

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining

money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives there from, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing; shall be fined not more than $1,000 or imprisoned not more than five years, or both. If the violation affects a financial institution, such person shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both.
(June 25, 1948 ch 645, § I, 62 Stat. 763; May 24, 1949, ch 139, § 34, 63 Stat. 94; Aug. 12, 1970, P.L. 91-375, § 6(j)(11), 84 Stat. 778; Aug. 9, 1989, P. L. 101-73, Title IX, Subtitle F, § 961(i), 103 Stat. 500; Nov. 29, 1990, P.L. 101-647, Title XXV, Subtitle A, § 2504(h), 104 Stat. 4861.

4. 18 USCS § 1512. Tampering with a witness, victim, or informant.

(a)(1) Whoever kills or attempts to kill another person, with intent to-

(A) prevent the attendance or testimony of any person in an official proceeding;

(B) prevent the production of a record, document, or other object, in an official proceeding; or

(C) prevent the communication by any person to a law enforcement officer or judge of the United States of information relating to the commission of possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

shall be punished as provided in paragraph (2).

(2) The punishment for an offense under this subsection is-

(A) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title; and

(B) in the case of an attempt, imprisonment for not more than twenty years.

(b) Whoever knowingly uses intimidation or physical force, threatens or corruptly persuades another person, or attempts to do so, or engages in misleading conduct toward another person, with intent to-

(1) influence, delay or prevent the testimony of any person in an official proceeding;

(2) cause or induce any person to-

(A)..withhold testimony, or withhold a record, document, or other object with intent to impair the object's integrity or availability for use in an official proceeding;

(B) alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding;

(C) evade legal process summoning that person to appear as a witness, or to produce a record,

document, or other object, in an official proceeding; or

(D) be absent from an official proceeding to which such person has been summoned by legal process; or

(3) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or ...;

shall be fined not more than $250,000 or imprisoned not more than ten years, or both.

(c) Whoever intentionally harasses another person and thereby hinders, delays, prevents, or dissuades and person from –

(1) attending or testifying in an official proceeding;

(2) reporting to a law enforcement officer or judge of the United States the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

(3) arresting or seeking the arrest of another person in connection with a Federal offense; or ...

or attempts to do so, shall be fined not more than $25,000 or imprisoned not more than one year, or both.

(d) In a prosecution for an offense under this section, it is an affirmative defense, as to which the defendant has the burden of proof by a preponderance of the evidence, that the conduct consisted solely of lawful conduct...

(e) For the purposes of this section-

(1) an official proceeding need not be pending or about to be instituted at the time of the offense; and

(2) the testimony, or the record, document, or other object need not be admissible in evidence or free from the claim of privilege.
(f) ...
(g) ...
(h) A prosecution under this section or section 1503 may be brought in the district in which the official proceeding (whether or not pending or about to be instituted) was intended to be affected or in the district in which the conduct constituting the alleged offense occurred.

5. **18 USCS § 1513. Retaliating against a witness, victim, or an informant.**

(a) Whoever knowingly engages in any conduct and thereby causes bodily injury to another person or damages the tangible property of another person, or threatens to do so, with intent to retaliate against any person for-
(1) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or
(2) any information relating to the commission or possible commission of a Federal offense or a violation of conditions...
or attempts to do so, shall be fined not more than $250,000 or imprisoned not more than ten years, or both.
(b) There is extraterritorial Federal jurisdiction over an offense under this section.

6. 18 USCS § 1514. Civil action to restrain harassment of a victim or a witness.

(a)(1) A United States district court, upon application of the attorney for the Government, shall issue a temporary restraining order prohibiting harassment of a victim or witness in a Federal criminal case if the court finds, from specific facts shown by affidavit or by verified complaint, that there are reasonable grounds to believe that harassment of an identified victim or witness in a Federal criminal case exists or that such order is necessary to prevent and restrain an offense under section 1512 of this title, other than an offense consisting of misleading conduct, under section 1513 of this title.

(2)(A) A temporary restraining order may be issued under this section without written or oral notice to the adverse party or such party's attorney in a civil action under this section if the court finds, upon written certification of facts by the attorney for the Government, that such notice should not be required and that there is a reasonable probability that the Government will prevail on the merits.

7. 18 USCS § 1531. Partial-birth abortions prohibited.

18 § 1520 CRIMES AND CRIMINAL PROCEDURE

CHAPTER 74 PARTIAL-BIRTH ABORTIONS

Sec.
1531. Partial-birth abortions prohibited.

HISTORICAL AND STATUTORY NOTES
Amendments

2003 Amendments. Pub.L. 108-105, § 3(a). Nov. 5, 2003. 117 Stat. 1206, added chapter 74 and item 1531.

18 USCS § 1531. Partial-birth abortions prohibited.

(a) Any physician who, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus shall be fined under this title or imprisoned not more than 2 years, or both. This subsection does not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself. This subsection takes effect 1 day after the enactment.

(b) As used in this section-

(1) the term "partial-birth abortion" means an abortion in which the person performing the abortion-

(A) deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and

(B) performs the overt act, other than completion of delivery, that kills the partially delivered living fetus; and

(2) the term "physician" means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions: Provided, however, That any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs a partial-birth abortion, shall be subject to the provisions of this section.

(c)(1) The father, if married to the mother at the time she receives a partial-birth abortion procedure, and if the mother has not attained the age of 18 years at the time of the abortion, the maternal grandparents of the fetus, may in a civil action obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

(2) Such relief shall include-

(A) money damages for all injuries, psychological and physical, occasioned by the violation of this section; and

(B) statutory damages equal to three times the cost of the partial-birth abortion.

(d)(1) A defendant accused of an offense under this section may seek a hearing before the State Medical Board on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-

endangering physical condition caused by or arising from the pregnancy itself.

(2) The findings on that issue are admissible on that issue at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.

(e) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section, for a conspiracy to violate this section, or for an offense under section 2, 3, or 4 of this title based on a violation of this section.

(Added Pub.L. 108-105, § 3(a), Nov. 5, 2003, 117 Stat. 1206.)

HISTORICAL AND STATUTORY NOTES

References in Text

1 day after the enactment, referred to in subsec. (a), probably means 1 day after the enactment of Pub.L. 108-105, 117 Stat. 1201, which was approved Nov. 5, 2003.

Short Title

2003 Acts. Pub.L. 108-105, § 1, Nov. 5, 2003, 117 Stat. 1201, provided that: "This Act [enacting this chapter and provisions set out as a note under this section] may be cited as the 'Partial-Birth Abortion Ban Act of 2003'."

Congressional Findings

Pub.L. 108-105, § 2, Nov. 5, 2003, 117 Stat. 1201, provided that:

"The Congress finds and declares the following:

"(1) A moral, medical, and ethical consensus exists that the practice of performing a partial-birth abortion-an abortion in which a physician deliberately and intentionally vaginally delivers a living, unborn child's body until either the entire baby's head is outside the body of the mother, or any part of the baby's trunk past the navel is outside the body of the mother and only the head remains inside the womb, for the purpose of performing an overt act (usually the puncturing of the back of the child's skull and removing the baby's brains) that the person knows will kill the partially delivered infant, performs this act, and then completes delivery of the dead infant-is a gruesome and inhumane procedure that is never medically necessary and should be prohibited.

"(2) Rather than being an abortion procedure that is embraced by the medical community, particularly among physicians who routinely perform other abortion procedures, partial-birth abortion remains a disfavored procedure that is not only unnecessary to preserve the health of the mother, but in fact poses serious risks to the long-term health of women and in some circumstances, their lives. As a result, at least 27 States banned the procedure as did the United States Congress which voted to ban the procedure during the 104th, 105th, and 106th Congress

"(3) In *Stenberg v. Carhart*, 530 U.S. 914, 932 (2000), the United States Supreme Court opined 'that significant medical authority supports the

proposition that in some circumstances, [partial birth abortion] would be the safest procedure' for pregnant women who wish to undergo an abortion. Thus, the Court struck down the State of Nebraska's ban on partial-birth abortion procedures, concluding that it placed an 'undue burden' on women seeking abortions because it failed to include an exception for partial-birth abortions deemed necessary to preserve the 'health' of the mother.

"(4) In reaching this conclusion, the Court deferred to the Federal district court's factual findings that the partial-birth abortion procedure was statistically and medically as safe as, and in many circumstances safer than, alternative
abortion procedures.

"(5) However, substantial evidence presented at the Stenberg trial and overwhelming evidence presented and compiled at extensive congressional hearings, much of which was compiled after the district court hearing in Stenberg, and thus not included in the Stenberg trial record, demonstrates that a partial-birth abortion is never necessary to preserve the health of a woman, poses significant health risks to a woman upon whom the procedure is performed and is outside the standard of medical care.

"(6) Despite the dearth of evidence in the Stenberg trial court record supporting the district court's findings, the United States Court of Appeals for the Eighth Circuit and the Supreme Court refused to set aside the district court's factual findings because, under the applicable standard of appellate review, they were not 'clearly erroneous.' A finding of fact is clearly erroneous 'when although there is evidence to

support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed'. *Anderson v. City of Bessemer City, North Carolina*, 470 U.S. 564, 573 (1985). Under this standard, 'if the district court's account of the evidence is plausible in light of the record viewed in its entirety, the court of appeals may not reverse it even though convinced that had it been sitting as the trier of fact, it would have weighed the evidence differently'. Id. at 574.

"(7) Thus, in Stenberg, the United States Supreme Court was required to accept the very questionable findings issued by the district court judge-the effect of which was to render null and void the reasoned factual findings and policy determinations of the United States Congress and at least 27 State legislatures.

"(8) However, under well-settled Supreme Court jurisprudence, the United States Congress is not bound to accept the same factual findings that the Supreme Court was bound to accept in Stenberg under the 'clearly erroneous' standard. Rather, the United States Congress is entitled to reach its own factual findings-findings that the Supreme Court accords great deference-and to enact legislation based upon these findings so long as it seeks to pursue a legitimate interest that is within the scope of the Constitution, and draws reasonable inferences based upon substantial evidence.

"(9) In *Katzenbach v. Morgan*, 384 U.S. 641 (1966), the Supreme Court articulated its highly deferential review of congressional factual findings when it addressed the constitutionality of section 4(e) of the Voting Rights Act of 1965 [42 USCA § 1973b(e).

Voting Rights Act of 1965.]. Regarding Congress' factual determination that section 4(e) [b(e)] would assist the Puerto Rican community in 'gaining nondiscriminatory treatment in public services,' the Court stated that [i]t was for Congress, as the branch that made this judgment, to assess and weigh the various conflicting considerations. It is not for us to review the congressional resolution of these factors. It is enough that we be able to perceive a basis upon which the Congress might resolve the conflict as it did. There plainly was such a basis to support section 4(e) [42 USCA § 1973 b(e)] in the application in question in this case.'. Id. at 653.

"(10) *Katzenbach's* highly deferential review of Congress' factual conclusions was relied upon by the United States District Court for the District of Columbia when it upheld the 'bail-out' provisions of the Voting Rights Act of 1965 (42 USC 1973) (c), stating that 'congressional fact finding, to which we are inclined to pay great deference, strengthens the inference that, in those jurisdictions covered by the Act, state actions discriminatory in effect are discriminatory in purpose'. *City of Rome, Georgia v. U.S.*, 472 F. Supp. 221 (D.D.C. 1979) aff'd *City of Rome, Georgia v. U.S.*, 446 U.S. 156 (1980).

"(11) The Court continued its practice of deferring to congressional factual findings in reviewing the constitutionality of the must-carry provisions of the Cable Television Consumer Protection and Competition Act of 1992 [Pub.L. 102-385, Oct. 5, 1992], 106 Stat. 1460; see Tables for complete classification]. See *Turner Broadcasting System, Inc. v. Federal Communications Commission*, 512 U.S. 622 (1994) *(Turner I) and Turner Broadcasting*

System, Inc. v. Federal Communications Commission, 520 U.S. 180 (1997) (Turner II). At issue in the Turner cases was Congress' legislative finding that, absent mandatory carriage rules, the continued viability of local broadcast television would be 'seriously jeopardized'. The Turner I Court recognized that as an institution, 'Congress is far better equipped than the judiciary to 'amass and evaluate the vast amounts of data' bearing upon an issue as complex and dynamic as that presented here', 512 U.S. at 665-66. Although the Court recognized that 'the deference afforded, to legislative findings does 'not foreclose our independent judgment of the facts bearing on an issue of constitutional law," its 'obligation to exercise independent judgment when First Amendment rights are implicated is not a license to reweigh the evidence de novo, or to replace Congress' factual predictions with our own. Rather, it is to assure that, in formulating its judgments, Congress has drawn reasonable inferences based on substantial evidence.' Id. at 666.

"(12) Three years later in Turner II, the Court upheld the 'must-carry' provisions based upon Congress' findings, stating the Court's 'sole obligation is 'to assure that, in formulating its judgments, Congress has drawn reasonable inferences based on substantial evidence." 520 U.S. at 195. Citing its ruling in Turner I, the Court reiterated that '[w]e owe Congress' findings deference in part because the institution 'is far better equipped than the judiciary to 'amass and evaluate the vast amounts of data' bearing upon' legislative questions,' id. at 195, and added that it 'owe[d]

Congress' findings an additional measure of deference out of respect for its authority to exercise the legislative power.'. Id. at 196.

"(13) There exists substantial record evidence upon which Congress has reached its conclusion that a ban on partial-birth abortion is not required to contain a 'health' exception, because the facts indicate that a partial-birth abortion is never necessary to preserve the health of a woman, poses serious risks to a woman's-health, and lies outside the standard of medical care. .Congress was informed by extensive hearings held during the 104th, 105th, 107th, and 108th Congresses and passed a. ban on partial-birth abortion in the 104th, 105th, and 106th Congresses. These findings reflect the very informed judgment of the Congress that a partial-birth abortion is never necessary to preserve the health of a woman, poses serious risks to a woman's health, and lies outside the standard of medical care, and should, therefore, be banned.

(14) Pursuant to the testimony received during extensive legislative hearings during the 104th, 105th, 107th, and 108th Congresses, Congress finds and declares that:

(A) Partial-birth abortion poses serious risks to the health of a woman undergoing the procedure. Those risks include, among other things: An increase in a woman's risk of suffering from cervical incompetence, a result of cervical dilation making it difficult or impossible for a woman to successfully carry a subsequent pregnancy to term; an increased risk of uterine rupture, abruption, amniotic fluid embolus, and trauma to the uterus as a result of converting the child to a footling breech position, a

procedure which, according to a leading obstetrics textbook, 'there are very few, if any, indications for * * * other than for delivery of a second twin; and a risk of lacerations and secondary hemorrhaging due to the doctor blindly forcing a sharp instrument into the base of the unborn child's skull while he or she is lodged in the birth canal, an act which could result in severe bleeding, brings with it the threat of shock, and could ultimately result in maternal death.

(B) There is no credible medical evidence that partial-birth abortions are safe or are safer than other abortion procedures. No controlled studies of partial-birth abortions have been conducted nor have any comparative studies been conducted to demonstrate its safety and efficacy compared to other abortion methods. Furthermore, there have been no articles published in peer-reviewed journals that establish that partial-birth abortions are superior in any way to established abortion procedures. Indeed, unlike other more commonly used abortion procedures, there are currently no medical schools that provide instruction on abortions that include the instruction in partial-birth abortions in their curriculum.

(C) A prominent medical association has concluded that partial-birth abortion is 'not an accepted medical practice', that it has 'never been subject to even a minimal amount of the normal medical practice development,' that 'the relative advantages and disadvantages of the procedure in specific circumstances remain unknown,' and that 'there is no consensus among obstetricians about its use.' The association has further noted that partial-birth abortion is broadly disfavored by both medical

experts and the public, is 'ethically wrong,' and 'is never the only appropriate procedure.'

(D) Neither the plaintiff in *Stenberg v. Carhart*, nor the experts who testified on his behalf, have identified a single circumstance during which a partial-birth abortion was necessary to preserve the health of a woman.

(E) The physician credited with developing the partial-birth abortion procedure has testified that he has never encountered a situation where a partial-birth abortion was medically necessary to achieve the desired outcome and, thus, is never medically necessary to preserve the health of a woman.

(F) A ban on the partial-birth abortion procedure will therefore advance the health interests of pregnant women seeking to terminate a pregnancy.

(G) In light of this overwhelming evidence, Congress and the States have a compelling interest in prohibiting partial-birth abortions. In addition to promoting maternal health, such a prohibition will draw a bright line that clearly distinguishes abortion and infanticide, that preserves the integrity of the medical profession, and promotes respect for human life.

(H) Based upon *Roe v. Wade*, 410 U.S. 113 (1973) and *Planned Parenthood v. Casey*, 505 U.S. 833 (1992), a governmental interest in protecting the life of a child during the delivery process arises, by virtue of the fact that during a partial-birth abortion, labor is induced and the birth process has begun. This distinction was in *Roe* when the Court noted, without comment, that the Texas parturition statute, which prohibited one from killing a child 'in a state of being born and before actual birth,' was not under

attack. This interest becomes compelling as the child emerges from the maternal body. A child that is completely born is a full, legal person entitled to constitutional protections afforded a 'person' under the United States Constitution. Partial-birth abortions involve the killing of a child that is in the process, in fact mere inches away from, becoming a 'person'. Thus, the government has a heightened interest in protecting the life of the partially-born child.

(I) This, too, has not gone unnoticed in the medical community, where a prominent medical association has recognized that partial-birth abortions are 'ethically different from other destructive abortion techniques because the fetus, normally twenty weeks or longer in gestation, is killed outside of the womb'. According to this medical association, the "partial birth' gives the fetus an autonomy which separates it from the right of the woman to choose treatments for her own body'.

(J) Partial-birth abortion also confuses the medical, legal, and ethical duties of physicians to preserve and promote life, as the physician acts directly against the physical life of a child, whom he or she had just delivered, all but the head, out of the womb, in order to end that life. Partial-birth abortion thus appropriates the terminology and techniques used by obstetricians in the delivery of living children-obstetricians who preserve and protect the life of the mother and the child- and instead uses those techniques to end the life of the partially-born child.

(K) Thus, by aborting a child in the manner that purposefully seeks to kill the child after he or she

has begun the process of birth, partial-birth abortion undermines the public's perception of the appropriate role of a physician during the delivery process, and perverts a process during which life is brought into the world, in order to destroy a partially-born child.

(L) The gruesome and inhumane nature of the partial-birth abortion procedure and its disturbing similarity to the killing of a newborn infant promotes a complete disregard for infant human life that can only be countered by a prohibition of the procedure.

(M) The vast majority of babies killed during partial-birth abortions are alive until the end of the procedure. It is a medical fact, however, that unborn infants at this stage can feel pain when subjected to painful stimuli and that their perception of this pain is even more intense than that of newborn infants and older children when subjected to the same stimuli. Thus, during a partial-birth abortion procedure, the child will fully experience the pain associated with piercing his or her skull and sucking out his or her brain.

(N) Implicitly approving such a brutal and inhumane procedure by choosing not to prohibit it will further coarsen society to the humanity of not only newborns but all vulnerable and. innocent human life, making it increasingly difficult to protect such life. Thus, Congress has a compelling interest in acting-indeed it must act-to prohibit this inhumane procedure.

(O) For these reasons, Congress finds that partial-birth abortion is never medically indicated to preserve the health of the mother; is in fact unrecognized as a valid abortion procedure by the

mainstream medical community; poses additional health risks to the mother; blurs the line between abortion and infanticide in the killing of a partially-born child just inches from birth; and confuses the role of the physician in childbirth and should, therefore, be banned."

LAW REVIEW AND JOURNAL COMMENTARIES

How much protection do injunctions against enforcement of allegedly unconstitutional statutes provide? Vikram David Amar, 31 Fordham Urb. L.J. 657 (2004)).

It's my body it's my choice: The Partial-Birth Abortion Ban Act of 2003. Comment, 35 Loy. U. Chi. L.J. 1117 (2004).

Recent developments in reproductive health law and the constitutional rights of women: *The role of judiciary in regulating maternal health and safety. Comment*, 41 Cal. W. L. Rev. 507 (2005).

8. 18 USCS § 1584. Sale into involuntary servitude.

Whoever knowingly and willfully holds to involuntary servitude or sells into any condition of involuntary servitude, and person for any term, or brings within the United States any person so held, shall be fined not more than $5000 or imprisoned not more than five years, or both.
(June 24, 1948, ch 645, § 1, Stat. 773.)

9. 18 USCS § 1951. Interference with commerce by threats or violence.

(a) Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section shall be fined under this title or imprisoned not more than twenty years, or both.
(b) As used in this section·

(1) The term "robbery" means the unlawful taking or obtaining of personal property from the person or in the presence of another, against his will, by means of actual or threatened force, or violence, or fear of injury, immediate or future, to his person or property, or property in his custody or possession, or the person or property of a relative or member of his family or of anyone in his company at the time of the taking or obtaining.

(2) The term "extortion" means the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right.

(3) The term "commerce" means commerce within the District of Columbia, or any Territory or Possession of the United States; all commerce between any point in a State, Territory, Possession, or the District of Columbia and any point outside thereof; all commerce between points within the same State through any place outside such State; and all other commerce over which the United States has jurisdiction.

(c) This section shall not be construed to repeal, modify or affect section 17 of Title 15 [15 USCS § 17],

sections 52, 101-115, 151-166 of Title 29 or sections 151-188 of Title 45 [45 USCS §§ 151-188].
(June 25, 1948, ch 645, § 1, 62 Stat. 793; Sept. 13, 1994, P.L. 103-322, Title XXXIII, § 330016(1)(L), 108 Stat. 2147.)

10. 18 USCS § 1952. Interstate and foreign travel or transportation in aid of racketeering enterprises.

(a) Whoever travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to-

(1) distribute the proceeds of any unlawful activity; or

(2) commit any came of violence to further any unlawful activity; or

(3) otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity, and thereafter performs or attempts to perform-

(A) an act described in paragraph (1) or (3) shall be fined under this title or imprisoned not more than 5 years, or both; or

(B) an act described in paragraph (2) shall be fined under this title, imprisoned for not more than 20 years. or both, and if death results shall be imprisoned or any term of years or for life.

(b) As used in this section (i) "unlawful activity" means (1) any business enterprise involving gambling, liquor on which the Federal excise tax has not been paid, narcotics or controlled substances as defined in section 102(6) of the Controlled Substances Act [21 USCS § 802 (b)], or prostitution

offenses in violation of the laws of the State in which they are committed or of the United States, (2) extortion, bribery, or arson in violation of the laws of the State in which committed or of the United States, or (3) any act which is indictable under subchapter II of chapter 53 of title 31, United States Code, or under section 1956 or 1957 of this title and (ii) the term "State" includes a State of the United States, the District of Columbia, and any commonwealth, territory or any possession of the United States.

(c) Investigations of violations under this section involving liquor shall be conducted under this supervision of the Secretary of the Treasury.

11. 18 USCS § 1961. Definitions.

As used in this chapter [18 USCS §§ 1961 et seq.]-
(1) "racketeering activity" means (A) any act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in obscene matter, or dealing in a controlled substance or listed chemical (as defined in section 102 or the Controlled Substances Act [21 USCS § 802]), which is chargeable under State law and punishable by imprisonment for more than one year; (B) any act which is indictable under any of the following provisions of title18, United States Code 201 (relating to bribery), section 224 (relating to sports bribery), sections 471, 472, and 473 (relating to counterfeiting), section 659 (relating to theft from interstate shipment) if the act indictable under section 659 is felonious, section 664 (relating to

embezzlement from pension and welfare funds), sections 891-894 (relating to extortionate credit transactions), section 1028, (relating to fraud and related activity in connection with identification documents) , section 1029 (relating to fraud and related activity in connection with access devices), section 1084 (relating to the transmission of gambling information), section 1341 (relating to mail fraud), section 1343 (relating to wire fraud), section 1344 (relating to financial institution fraud), section 1425 (relating to the procurement of citizenship or nationalization unlawfully) , section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization of citizenship papers), sections 1461-1465 (relating to obscene matter), section 1503 (relating to obstruction of justice , section 1510 (relating to obstruction of criminal investigations), section 1511 (relating to the obstruction of State or local law enforcement), section 1512 (relating to tampering with a witness, victim, or an informant), section 1513 (relating to retaliating against a witness, victim, or an informant), section 1542 (relating to a false statement in application and use of passport), section 1543 (relating to forgery or false use of passport), section 1544 (relating to misuse of passport), section 1546 (relating to fraud and misuse of visas, permits, and other documents), sections 1581-1588 (relating to peonage and slavery), section 1951 (relating to interference with commerce, robbery, or extortion), section 1952 (relating to racketeering), section 1953 (relating to interstate transportation of wagering

paraphernalia), section 1954 (relating to unlawful welfare fund payments), section 1955 (relating to the prohibition of illegal gambling businesses), section 1956 (relating to the laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity), section 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire), 2251, 2251A, 2252, and 2260 (relating to sexual exploitation of children), sections 2312 and 2313 (relating to interstate transportation of stolen motor vehicles), sections 2314 and 2315 (relating to interstate transportation of stolen property), section 2318 (relating to trafficking in counterfeit labels for phone records, computer programs or computer program documentation or packaging and copies of motion pictures or other audiovisual works), section 2319 (relating to criminal infringement of copyright), section 2319A (relating to unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances), section 2320 (relating to trafficking in goods or services bearing counterfeit marks), section 2321 (relating to trafficking, in certain motor vehicles or motor vehicle parts), sections 2341-2346 (relating to trafficking in contraband cigarettes), sections 2421-24 (relating to white slave traffic), (C) an act which is indictable under title 29, United States Code, section 186 (dealing with restrictions on payments and loans to labor organizations) or section 501(c) (relating to embezzlement from union funds), (D) any offense involving fraud connected with a case under title 11 (except a case under section 157 of this title), fraud

in the sale of securities, or the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act [21 USCS § 802]), punishable under any law of the United States, (E) any act which is indictable under the Currency and Foreign Transactions Reporting Act, (F) any act which is indictable under the Immigration and Nationality Act, section 274 [8 USCS § 1324] (relating to bringing in and harboring certain aliens), section 277 [8 USCS § 1327] (relating to aiding or assisting certain aliens to enter the United States), or section 278 (8 USCS § 1328] (relating to importation of alien for immoral purpose) if the act indictable under such section of such Act was committed for the purpose of financial gain, or (G) any act that is indictable under any provision listed in section 2332b(g)(5)(B);

(2) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any political subdivision, or any department, agency, or instrumentality thereof;

(3) "person" includes any individual or entity capable of holding a legal or beneficial interest in property;

(4) "enterprise" includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity;

(5) "pattern of racketeering activity" requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and

the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity;
(6) "unlawful debt" means a debt (A) incurred or contracted in gambling activity which was in violation of the law of the United States, a State or political subdivision thereof, or which is unenforceable under State or Federal law in whole or in part as to principal or interest because of the laws relating to usury, and (B) which was incurred in connection with the business of gambling in violation of the law of the United States, a State or political subdivision thereof, or the business of lending money or a thing of value at a rate usurious under State or Federal law, where the usurious rate is at least twice the enforceable rate;
(7) "racketeering investigator" means an attorney or investigator so designated by the Attorney General and charged with the duty of enforcing or carrying into effect this chapter [18 USCS §§ 1961 et seq.];
(8) "racketeering investigation" means any inquiry conducted by any racketeering investigator for the purpose of ascertaining whether any person has been involved in any violation of this chapter [18 USCS §§ 1961 et seq.] or of any order, judgment, or decree of any court of the United States,
duly entered in any case or proceeding arising under this chapter [18 USCS §§ 161, et. seq.];
(9) "documentary material" includes any book, paper, document, record, recording, or other material; and
(10) "Attorney General" includes the Attorney General of the United States, the Deputy Attorney General of the United States, the Associate Attorney

General of the United States, any Assistant Attorney General of United States, or any employee of the Department of Justice or any employee of any department or agency of the United States so designated by the Attorney General to carry out the powers conferred on the Attorney General by this chapter [18 USCS §§ 1961 et seq.]. Any department or agency so designated may use in investigations authorized by this chapter [18 USCS §§ 1961 et seq.] either the investigative provisions of this chapter [18 USCS §§ 1961 et seq.] or the investigative power of such department or agency otherwise conferred by law.

12. 18 USCS § 2241. Aggravated sexual abuse.

(a) By force or threat. Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly causes another person to engage in a sexual act-

(1) by using force against that other person; or

(2) by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping;

or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.

(b) By other means. Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly-

(1) renders another person unconscious and thereby engages in a sexual act with that other person; or

(2) administers to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby

(A) substantially impairs the ability of that other person to appraise or control conduct; and

(B) engages in a sexual act with that other person;

or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.

(c) With children. Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who has not attained the age of 12 years, or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.

(d) State of mind proof requirement. In a prosecution under subsection (c) of this section, the Government need not prove that the defendant knew that the other person engaging in the sexual act had not attained the age of 12 years.

(Added Nov. 10, 1986, P. L. 99-646, § 87(b), 100 Stat. 3620 and Nov. 14, 1986, P.L. 99-654, § 2, 100 Stat. 3660.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Explanatory notes:

Identical sections 2241 were added by Act Nov. 10, 1986 and Act Nov. 14, 1986.

Effective date of section:

Act Nov. 10, 1986, P.L. 99-646, § 87(e), 100 Stat. 3624 and Act Nov. 14, 1986, P.L. 99-654, § 4, 100 Stat. 3664, both of which appear as a note to this section, provide that this section shall take effect 30 days after their respective enactment.

13. 18 USCS § 2242. Sexual abuse.

Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly-

(1) causes another person to engage in a sexual act by threatening or placing that other person in fear (other than by threatening or placing that other person in fear that (other than by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping); or

(2) engages in a sexual act with another person if that other person is-

(A) incapable of appraising the nature of the conduct; or

(B) physically incapable of declining participation in, or communicating unwillingness to engage in, that sexual act;

or attempts to do so, shall be fined under this title, imprisoned not more than 20 years, or both.

14. 18 USCS § 2243. Abusive sexual conduct.

(a) Sexual conduct in circumstances where sexual acts are punished by this chapter [18 USCS §§ 2241

et seq] Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in or causes sexual contact with or by another person, if so to do would violate-

(1) section 2241 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than ten years, or both;

(2) section 2242 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than three years, or both;

...

(b) In other circumstances. Whosoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in sexual contact with another person without that other person's permissions shall be fined not more than $5,000, imprisoned not more than six months, or both.

D. 28 USCS

1. 28 USCS § 509. Functions of the Attorney General.

Section 2537. Appointment Responsibilities and Compensation of the Special Counsel.

"(b): Responsibilities – The Special Counsel shall -

"(1) supervise and coordinate investigations and prosecutions within the Department of Justice of fraud and other criminal activity in and against the financial services industry, including, to the extent consistent with the independent counsel provision of chapter 40 of 28 U.S.C., any such activity by any current or former elected official or high-level

executive branch official or any member of the immediate family of any such official;

(2) ensure that Federal law relating to civil enforcement, asset seizure and forfeiture, money laundering, and racketeering are used to the fullest extent authorized to recover the proceeds of unlawful activities from persons who have committed crimes in and against the financial services industry; and"."

2. 28 USCS § 1654. **Appearance personally or by counsel.** In all courts of the United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein.

3. 28 USCS § 1733. **Government records and papers; copies.**

(a) Books or records of account of minutes of proceedings of any department or agency of the United States shall be admissible to prove the act, transaction or occurrence as a memorandum of which the same were made or kept.
(b) Properly authenticated copies or transcripts of any books, records, papers or documents of any department or agency of the United States shall be admitted in evidence equally with the originals thereof.
(c) This section does not apply to cases, actions, and proceedings to which the Federal Rules of Evidence apply.

E. 42 USCS

1. 42 USCS § 1981. Equal rights under the law.

(a) Statement of equal rights.
(b) "Make and enforce contracts'" defined.
(c) Protection against impairment.

2. 42 USCS § 1981a. Damages in cases of intentional discrimination in employment.

(a) Right of recovery.
(b) Compensatory and punitive damages.
(c) Jury trial.
(d) Definitions.

3. 42 USCS § 1982. Property rights of citizens.

GENERALLY

(a) Statement of equal rights. All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make enforce contracts, to sue, be parties, give evidence, and to the full and eq. benefit of all laws and proceedings for the security of persons and property is enjoyed by white citizens, and shall be subject to like punishment, pal penalties, taxes, licenses, and exactions of every kind, and to no other.

(b) "Make and enforce contracts" defined. For purposes of this section, the term "make and enforce contracts" includes the making, performance, modification, and termination of contracts, and the

enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.

(c) Protection against impairment. The rights protected by this section protected against impairment by nongovernmental discrimination and impairment under color of State law.

4. 42 USCS § 1983. Civil action for deprivation of rights.

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia.`(R. S. § 1979; Dec. 29, 1979, P.L 96-170, §1, 93 Stat 1284, Oct 19, 1996, P. L. 104-317, Title III, § 309(c), 110 Stat. 3853.)

5. 42 USCS § 1985. Conspiracy to interfere with civil rights.

(1) If two or more persons in any State or Territory conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof; or to induce by like means any officer of the United States to leave any State, district or place, where his duties as an officer of the United States to leave any State, district or place, where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties;

(2) Obstructing justice; intimidating party, witness, or juror. If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his

property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;

(3) Depriving persons of rights or privileges. If two or more persons in any State or Territory conspire, or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or or of equal privileges and immunities under the laws, or for the purpose of preventing or hindering all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice-President, or as a member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators. (R.S. § 1980.)

6. 42 USCS § 1986. Conspiracy to interfere with civil rights.

Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in the preceding section [42 USCS § 1985], are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case on the case; and any number of persons guilty of such wrongful neglect or refusal maybe joined as defendants in the action, and if the death of any party be caused buy any such wrongful act and neglect, the legal representatives of the deceased shall have such action therefore, and may recover not exceeding five thousand dollars damages therein, for the benefit of the widow of the deceased, if there be one, and if there be no widow, then for the benefit of the next of kin of the deceased. But no action under this provisions of this section shall be sustained which is not commenced within one year after the cause of action accrued. (R.S. § 1981.)

7. 42 USCS § 2000b-2. Personal suits for relief against discrimination in public facilities.

Nothing in this title [42 USCS §§ 2000b-2000b-3] shall affect adversely the right of any person to sue

for or obtain relief in any court against discrimination in any facility covered by this title [42 USCS §§ 2000b-2000b-3].

(July 2, 1964, P.L. 88-352, Title III, § 303, 78 Stat. 246.)

F. 50 USCS.

50 USCS Appx §§ 501-590. Soldiers' and Sailors' Civil Relief Act of 1940 (SSCRA).

1. 50 USCS Appx §§ 510. Purpose; suspension of enforcement of civil liabilities.

In order to provide for, strengthen, and expedite the national defense under the emergent conditions which are threatening the peace and security of the United States and to enable the United States the more successfully to fulfill the requirements of the national defense, provision is hereby made to suspend enforcement of civil liabilities, in certain cases, of persons in the military service of the United States in order to enable such persons to devote their entire energy to the defense needs of the Nation, and to this end the following provisions are made for the temporary suspension of legal proceedings and transactions which may prejudice the civil rights of persons in such service during the period herein specified over which this Act [50 USCS Appx. §§ 501 et seq.] remains in force.
(Oct. 17, 1940, ch 888, § 100, 54 Stat. 1179.)

2. 50 USCS Appx §§ 511. Definitions.

(1) The term "person in military service", the term "persons in military service", and the term "persons in the military service of the United States", as sued in this Act [50 USCS Appx. §§ 501-590], shall include the following persons and no others: All members of the Army of the United States, ... The term "military service", as used in this Act [50 USCS Appx. §§ 501-590], shall signify Federal service on active duty either with any branch of the service heretofore referred to or mentioned as well as training and education under the supervision of the United States preliminary to induction into the military service. The terms 'active service" or "active duty" shall include the period during which a person in military service is absent from duty on account of sickness, wounds, leave, or other lawful cause.

(2) The term "period of military service", as used in this Act [50 USCS Appx §§ 501-590], means, in the case of any person, the period beginning on the date on which the person enters active service and ending on the date of the person's release from active service or death while in active service, but in no case later than the date this Act {50 USCS Appx §§ 501 et seq.] ceases to be in force.

(3) The term "person", when used in this Act [50 USCS Appx. §§ 501 et seq.], with reference to the holder of any right alleged to exist against a person in military service or against a person secondarily liable under such right, shall include individuals, partnerships, corporations, and any other forms of business association.

(4) The term "court", as used in this Act [50 USCS Appx. §§ 501 et seq.], shall include any court of court of competent jurisdiction of the United States or of any State, whether or not a court of record.

3. 50 USCS Appx §§ 512. Territorial application; jurisdiction of courts; form of procedure.

(1) The provisions of this Act [50 USCS Appx. §§ 501 et. seq.] shall apply to the United States, the several States and Territories, the District of Columbia, and all territory subject to the jurisdiction of the United States and to proceedings commenced in any court therein, and shall be enforced through the usual forms of procedure obtaining in such courts or under such regulations as may be by them prescribed.

(2) When under this Act [50 USCS Appx. §§ 501 et seq.] any application is required to be made to a court in which no proceeding has already been commenced with respect to the matter, such application may be made to any court.

4. 50 USCS Appx §§ 516. Extension of benefits to persons ordered to report for induction or military service.

Any person who has been ordered to report for ..., and any member of the reserve component of the Armed Forces who is ordered to report for military service shall be entitled to such relief and benefits during the period beginning on date of receipt of such order and ending on the date upon which such

member reports for military service or the date on which the order is revoked, whichever is earlier."

5. 50 USCS Appx §§ 521. Stay of proceedings where military service effects conduct thereof.

At any stage thereof any action or proceedings in any court in which a person in military service is involved, either as plaintiff or defendant, during the period of such service or within sixty days thereafter may, in the discretion of the court in which it is pending, on its own motion, and shall, on application to it by such person or some person on his behalf, be stayed as provided in this Act [50 USCS Appx. §§ 501 et seq.], unless, in the opinion of the court, the ability of the plaintiff to prosecute the action or the defendant to conduct his defense is not materially affected by reason of his military service.

6. 50 USCS Appx §§ 523. Stay or vacation of execution of judgments, attachments, etc.

In any action or proceeding commenced in any court against a person in military service, before or during the period of such service, or within sixty days thereafter, the court may, in its discretion, on its discretion, on its own motion, or on application to it by such person or some person on his behalf shall, unless in the opinion of the court the ability of the defendant to comply with the judgment or order entered or sought is not materially affected by reason of his military affected by reason of his military service·

(a) Stay the execution of any judgment or order entered against such person, as provided in this Act [50 USCS Appx. §§ 501 et seq.]; and

(b) Vacate or stay any attachment or garnishment of property, money, or debts in the hands of another, whether before or after judgment as provided in this Act [50 USCS Appx. §§ et seq.].

7. 50 USCS Appx §§ 525. Statutes of limitations as affected by period of service.

"The period of military service shall not be included in computing any period now or hereafter to be limited by any law, regulation, or order for the bringing of any action or proceeding in any court ... by or against any person in military service..., whether such cause of action or the right or the right or privilege to institute such action or proceeding shall have accrued prior to or during the period of such service..."

8. 50 USCS § 1801 (1996) Electronic Surveillance, Definitions.

d. "Sabotage" means activities that involve a violation of chapter 105 of title 18, US Code, [18 USCS § 2151 et seq.]

k. "Aggrieved person" means a person who is the target of an electronic surveillance or any other person whose communications or activities were subject to electronic surveillance.

m. "Person" means any individual, including any officer or employee of the Federal Government, or any group, entity association.

IV. STATE STATUTES

A. CALIFORNIA PENAL CODE

1. California Penal Code, § 205. Aggravated Mayhem.

A person is guilty of aggravated mayhem when he or she unlawfully, under circumstances manifesting extreme indifference to the physical or psychological well-being of another person, intentionally causes permanent disability or disfigurement of another or deprives a human being of a limb, organ, or member of his or her body... it is not necessary to prove an intent to kill. Aggravated Mayhem is a felony... imprisonment for life with the possibility of parole.

2. California Penal Code, § 207. Kidnapping defined.

(a) every person who forcibly, or by any other means of instilling fear, steals or takes, or holds, detains, ... and carries the person into another country, state, or county, or into another part of the same county, is guilty of kidnapping.

(c) Every person who forcibly, or by any means of instilling fear, takes or holds, detains, or arrests any person, with a design to take the person out of this state, ... or who hires, persuades, entices, decoys, or

seduces by false promises, misrepresentations, or the like, any person to go out of this state, or to be taken out of this state, or removed there from, for the purpose and with the intent to sell that person into slavery or involuntary servitude, or otherwise to employ that person for his or her own use, ore to the use of another without the free will and consent of that persuaded person, ids guilty of kidnapping.

B. COLORADO REVISED STATUTES (C.R.S.)

1. C.R.S. 13-6-106 (2002). Original Criminal Jurisdiction.

1) The county court shall have concurrent original jurisdiction with the district court in the following criminal matters:

(a) Criminal actions for the violation of state laws which constitute misdemeanors or petty offenses, except those actions involving children over which the juvenile court of the city and county of Denver or the district courts of the state, other than in Denver, have exclusive jurisdiction;

(b) The issuance of warrants, the conduct of preliminary examinations, the conduct of dispositional hearings pursuant to section 16-5-301 (1), C.R.S., and section 18-1-404 (1), C.R.S., the issuance of bind over orders, and the admission to bail in felonies and misdemeanors.

2. C.R.S. 13-25-131 (1999). Civil actions – sexual assault – certain evidence presumed irrelevant.

(1) In any civil action for damages by an alleged victim which alleges damages resulting from a sexual assault on a client by any person who enters into a professional-client relationship that permits professional physical access to the client's person or the **opportunity to affect or influence the thought processes or emotions of such client, including, but not limited to,** actions for professional malpractice or assault and battery, evidence of specific instances of the victim's prior or subsequent sexual conduct, opinion evidence of the victim's sexual conduct, and reputation evidence of the victim's sexual conduct shall be presumed to be irrelevant, except as provided in subsections (2) and (4) of this section. The persons to whom this subsection (1) applies in a civil action against such persons shall include any psychotherapist as defined in section 18-3-405.5, C.R.S., and medical... (1) shall also apply in a civil action against a parent or other person, in a position of trust, power, or authority over any child or other person, in a civil action by or on behalf of such other person.

3. C.R.S. 18-1-602 (1999) Behavior of Another.

"(1) A person is legally accountable for the behavior of another if: (b) He acts with the culpable mental state sufficient for the commission of the offense in question and he causes an innocent person to engage in such behavior. (2) 'innocent person' includes any person not guilty of the offense in question, despite his behavior, because of duress, legal incapacity or exemption, or unawareness of the criminal nature of

the conduct in question or of the defendant's criminal purpose..."

4. C.R.S. 18-1-603 (1999) Complicity.

"A person is legally accountable as principal for the behavior of another constituting a criminal offense if, with the intent to promote or facilitate the commission of the offense, he or she aids, abets, advises, or encourages the other person in planning or committing the offense."

5. C.R.S. 18-1-606 (2002) Criminal Liability of Corporations.

(1) A corporation is guilty of an offense if:

(a) The conduct constituting the offense consists of an omission to discharge a specific duty of affirmative performance imposed on corporations by law; or

(b) The conduct constituting the offense is engaged in, authorized, solicited, requested, commanded, or knowingly tolerated by the board of directors or by a high managerial agent acting within the scope of his employment or in behalf of the corporation.

(2) As used in this section, "agent" means any director, officer, or employee of a corporation, or any other person who is authorized to act in behalf of the corporation, and "high managerial agent" means an officer of a corporation or any other agent in a position of comparable authority with respect to the

formulation of corporate policy or the supervision in a managerial capacity of subordinate employees.

(3) Every offense committed by a corporation prior to July 1, 1985, which would be a felony if committed by an individual shall subject the corporation to the payment of a fine of not less than one thousand dollars nor more than fifteen thousand dollars. For such offenses committed on or after July 1, 1985, the corporation shall be subject to the payment of a fine within the presumptive ranges authorized by section 18-1.3-401 (1) (a) (III). Every offense committed by a corporation which would be a misdemeanor or petty offense if committed by an individual shall subject the corporation to the payment of a fine within the minimum and maximum fines authorized by sections 18-1.3-501 and 18-1.3-503 for the particular offense of which the corporation is convicted.
History

6. C.R.S. 18-1-709 (2002) **Entrapment.**

The commission of acts which would otherwise constitute an offense is not criminal if the defendant engaged in the proscribed conduct because he was induced to do so by a law enforcement official or other person acting under his direction, seeking to obtain evidence for the purpose of prosecution, and the methods used to obtain that evidence were such as to create a substantial risk that the acts would be committed by a person who, but for such inducement, would not have conceived of or engaged in conduct of the sort induced. Merely affording a person an opportunity to commit an offense is not entrapment

even though representations or inducements calculated to overcome the offender's fear of detection are used.

7. C.R.S. 18-2-201 (2002) Conspiracy.

(1) A person commits conspiracy to commit a crime if, with the intent to promote or facilitate its commission, he agrees with another person or persons that they, or one or more of them, will engage in conduct which constitutes a crime or an attempt to commit a crime, or he agrees to aid the other person or persons in the planning or commission of a crime or of an attempt to commit such crime.

(2) No person may be convicted of conspiracy to commit a crime, unless an overt act in pursuance of that conspiracy is proved to have been done by him or by a person with whom he conspired.
(3) If a person knows that one with whom he conspires to commit a crime has conspired with another person or persons to commit the same crime, he is guilty of conspiring to commit a crime with the other person or persons, whether or not he knows their identity.

(4) If a person conspires to commit a number of crimes, he is guilty of only one conspiracy so long as such multiple crimes are part of a single criminal episode.

(4.5) Conspiracy to commit any crime for which a court is required to sentence a defendant for a crime

of violence in accordance with section 18-1.3-406 is itself a crime of violence for the purposes of that section.

(5) If a person conspires to commit a felony which is defined by any statute other than one contained in this title and for which conspiracy no penalty is specifically provided, he is guilty of a class 6 felony. If a person conspires to commit a misdemeanor which is defined by any statute other than one contained in this title and for which conspiracy no penalty is specifically provided, he is guilty of a class 3 misdemeanor.

8. C.R.S. 18-2-206 (2002) Penalties for criminal conspiracy – when convictions barred.

(1) Conspiracy to commit a class 1 felony is a class 2 felony; conspiracy to commit a class 2 felony is a class 3 felony; conspiracy to commit a class 4 felony; conspiracy to commit a class 5 or 6 felony is a class 6 felony.

(2) A person may not be convicted of conspiracy to commit an offense if he is acquitted of the offense which is the object of the conspiracy where the sole evidence of conspiracy is the evidence establishing the commission of the offense which is the object of the conspiracy.

(3) If the particular conduct charged to constitute a criminal conspiracy is so inherently unlikely to result or culminate in the commission of a crime that neither that conduct nor the offender presents a

public danger warranting the grading of the offense under this section, the court may enter judgment and impose sentence for a crime of a lessor class or, in extreme cases, may dismiss the prosecution.

(4) Conspiracy to commit a class 1 misdemeanor is a class 2 misdemeanor.

(5) Conspiracy to commit a misdemeanor other than a class 1 misdemeanor is a class 3 misdemeanor.

(6) Conspiracy to commit a petty offense is a crime of the same class as the offense itself.

9. C.R.S. 18-3-207 (2002) Criminal extortion - aggravated extortion.

(1) A person commits criminal extortion if:

(a) The person, without legal authority and with the intent to induce another person against that other person's will to perform an act or to refrain from performing a lawful act, makes a substantial threat to confine or restrain, cause economic hardship or bodily injury to, or damage the property or reputation of, the threatened person or another person; and

(b) The person threatens to cause the results described in paragraph (a) of this subsection (1) by:
(I) Performing or causing an unlawful act to be performed; or
(II) Invoking action by a third party, including but not limited to, the state or any of its political

subdivisions, whose interests are not substantially related to the interests pursued by the person making the threat.

(2) A person commits aggravated criminal extortion if, in addition to the acts described in subsection (1) of this section, the person threatens to cause the results described in paragraph (a) of subsection (1) of this section by means of chemical, biological, or harmful radioactive agents, weapons, or poison.

(3) For the purposes of this section, "substantial threat" means a threat that is reasonably likely to induce a belief that the threat will be carried out and is one that threatens that significant confinement, restraint, injury, or damage will occur.

(4) Criminal extortion, as described in subsection (1) of this section, is a class 4 felony. Aggravated criminal extortion, as described in subsection (2) of this section, is a class 3 felony.

10. C.R.S. 24-5-101 (2002) Effect of criminal conviction on employment rights.

Except as otherwise provided by section 4 of article XII of the state constitution, and except for the certification and revocation of certification of peace officers as provided in section 24-31-305, and except for the employment of personnel in positions involving direct contact with vulnerable persons as specified in section 27-1-110, C.R.S., the fact that a person has been convicted of a felony or other offense involving moral turpitude shall not, in and of itself,

prevent the person from applying for and obtaining public employment or from applying for and receiving a license, certification, permit, or registration required by the laws of this state to follow any business, occupation, or profession. Whenever any state or local agency is required to make a finding that an applicant for a license, certification, permit, or registration is a person of good moral character as a condition to the issuance thereof, the fact that such applicant has, at some time prior thereto, been convicted of a felony or other offense involving moral turpitude, and pertinent circumstances connected with such conviction, shall be given consideration in determining whether, in fact, the applicant is a person of good moral character at the time of the application. The intent of this section is to expand employment opportunities for persons who, notwithstanding that fact of conviction of an offense, have been rehabilitated and are ready to accept the responsibilities of a law-abiding and productive member of society.

C. PENNSYLVANIA STATUTES (P.S.)

1. 35 P.S. § 780-112. Records of distribution of controlled substances.

(a) Every person who sells or otherwise distributes controlled substances, shall keep records of all purchases or other receipt and sales or other distribution of such substances for two years from the date of purchase or sale. Such records shall include the name and address of the person from whom purchased or otherwise received or to whom

sold or otherwise distributed, the date of purchase or receipt or sale or distribution, and the quantity involved: Provided, however, That this subsection shall not apply to a practitioner who dispenses controlled substances to his patients, unless the practitioner is regularly engaged in charging his patients, whether separately or together with charges for other professional services, for substances so dispensed.

(b) Every practitioner licensed by law to administer, dispense or distribute controlled substances shall keep a record of all such substances administered, dispensed or distributed by him, showing the date, the name and address of the patient, and in the case of a veterinarian, the name and address of the owners of the animal to whom such substances are dispensed or distributed. Such record shall be kept two years from the date of administering, dispensing or distributing such substance and shall be open for inspection by the proper authorities.

(c) Persons registered or licensed to manufacture or distribute or dispense a controlled substance, other drug or device under this act shall keep records and maintain inventories in conformity with the record-keeping, order form and inventory requirements of Federal law and with any additional regulations the secretary issues. Controlled substances in Schedules I and II [1] shall be distributed by a registrant to another registrant only pursuant to an order form.

2. 35 P.S. § 780-113. Prohibited acts; penalties.

(a) The following acts and the causing thereof within the Commonwealth are hereby prohibited:

(1) The manufacture, sale or delivery, holding, offering for sale, or possession of any controlled substance, other drug, device or cosmetic that is adulterated or misbranded.

(2) – (13) Not applicable

(14) The administration, dispensing, delivery, gift or prescription of any controlled substance by any practitioner or professional assistant under the practitioner's direction and supervision unless done (i) in good faith in the course of his professional practice; (ii) within the scope of the patient relationship; (iii) in accordance with treatment principles accepted by a responsible segment of the medical profession.

(15) – (20) Not applicable

(21) The refusal or failure to make, keep or furnish any record, notification, order form, statement, invoice or information required under this act.

(22) – (27) Not applicable

(28) The furnishing of false or fraudulent material information in, or omission of any material

information from any application, report, or other document required to be kept, or filed under this act, or any record required to be kept by this act.

D. REVISED CODE of WASHINGTON (RCW)

1. RCW 9.02.110. Right to have and provide.

The state may not deny or interfere with a woman's right to choose to have an abortion prior to viability of the fetus, or to protect her life or health.

A physician may terminate and a health care provider may assist a physician in terminating a pregnancy as permitted by this section. Enacted by Laws 1992, ch. 1, § 2 (Initiative Measure No. 120, approved Nov. 5, 1991), eff. Dec. 5, 1991.

2. RCW 9.02.120. Unauthorized abortions – Penalty.

Unless authorized by RCW 9.02.110, any person who performs an abortion on another person shall be guilty of a class C felony punishable under chapter 9A.20 RCW.
Enacted by Laws 1992, ch. 1, § 4 (Initiative Measure No. 120, approved Nov. 5, 1991), eff. Dec. 5, 1991.

3. RCW 9.02.130. Defenses to prosecution.

The good faith judgment of a physician as to viability of the fetus or as to the risk to life or health of a woman and the good faith judgment of a health care provider as to the duration of pregnancy shall be

a defense in any proceeding in which a violation of this chapter is an issue.

4. RCW 9.02.170. Definitions.

For further purposes of this chapter:

(1) "Viability" means the point in the pregnancy when, in the judgment of the physician on the particular facts of the case before such physician, there is a reasonable likelihood of the fetus's sustained survival outside the uterus without the application of extraordinary medical measures.

(2) "Abortion" means any medical treatment intended to induce the termination of a pregnancy except for the purpose of producing a live birth.

(3) "Pregnancy" means the reproductive process beginning with the implantation of an embryo.

(4) "Physician" means a physician licensed to practice under chapter 18.57 or 18.71 RCW in the state of Washington.

(5) "Health care provider" means a physician or a person acting under the general direction of a physician.